

CA20N
EAB
-H26



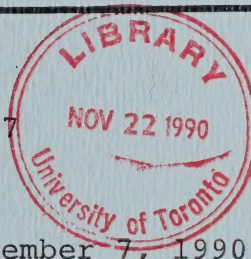
3 1761 11652477 8



ENVIRONMENTAL ASSESSMENT BOARD

VOLUME:

257



DATE: Wednesday, November 7, 1990

BEFORE:

A. KOVEN

Chairman

E. MARTEL

Member

FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

EARR
ASSOCIATES &
REPORTING INC.

(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4

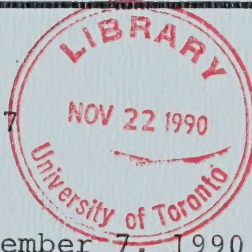
CA20N
EAB
-H26



ENVIRONMENTAL ASSESSMENT BOARD

VOLUME:

257



DATE: Wednesday, November 7, 1990

BEFORE:

A. KOVEN

Chairman

E. MARTEL

Member

FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

FARR &
ASSOCIATES
REPORTING INC.

(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4

HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the offices of the Ontario
Highway Transport Board, Britannica Building,
151 Bloor Street West, 10th Floor, Toronto,
Ontario, on Wednesday, November 7th, 1990,
commencing at 9:00 a.m.

VOLUME 257

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/31761116524778>

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH)	RESOURCES
MS. K. MURPHY)	
MR. B. CAMPBELL)	
MS. J. SEABORN)	MINISTRY OF ENVIRONMENT
MS. B. HARVIE)	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
MR. H. TURKSTRA	ENVIRONMENTAL ASSESSMENT
	BOARD
MR. J.E. HANNA)	ONTARIO FEDERATION
DR. T. QUINNEY)	OF ANGLERS & HUNTERS
MR. D. HUNTER)	NISHNAWBE-ASKI NATION
MS. S. BAIR-MUIRHEAD)	and WINDIGO TRIBAL
	COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MS. B. SOLANDT-MAXWELL)	
MR. D. COLBORNE)	GRAND COUNCIL TREATY #3
MS. N. KLEER)	
MR. C. REID)	ONTARIO METIS &
MR. R. REILLY)	ABORIGINAL ASSOCIATION
MR. P. SANFORD)	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD)	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF
	LABOUR

APPEARANCES: (Cont'd)

MR. R. COTTON		BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES)	ASSOCIATION
MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK)	MUNICIPAL COMMITTEE
MR. D. SCOTT)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH)	
MR. J. EBBS		ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES: (Cont'd)

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

	<u>Page No.</u>
<u>GEORGE MAREK</u> ; Resumed	46136
Direct Examination by Ms. Swenarchuk (Cont'd)	46136
Cross-Examination by Mr. Hanna	46203
 <u>SCOPING SESSION</u>	 46325

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1531	Interrogatory responses to OFAH Interrogatory Question Nos. 1-28, plus No. 25 under separate cover re FFT Panel No.3.	46205

1 ---Upon commencing at 9:05 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 MS. SWENARCHUK: Good morning. I want to
5 turn now, Madam Chair, Mr. Martel, to evidence for the
6 Beardmore-Lake Nipigon Watchdog Society.

7 GEORGE MAREK, Resumed

8 CONTINUED DIRECT EXAMINATION BY MS. SWENARCHUK:

9 Q. Mr. Marek, first of all, are you a
10 member of the Society?

11 A. No, I'm not a member, never been a
12 member.

13 Q. What is your relationship to the
14 Society?

15 A. I am consultant to the organization.
16 After I had been asked to consult them.

17 Q. Now, before we deal with some of the
18 issues that have been set out in the witness statement
19 of the Society, could you just indicate for the Board
20 briefly generally what are the concerns of the Society
21 with regard to timber management?

22 A. Madam Chair, perhaps it will be wise
23 to first locate Beardmore. I don't know if you are
24 aware of the location here. It's a small community.
25 It's on the east side of Lake Nipigon, approximately 12

1 miles from the lake.

2 It's a small community which has
3 presently approximately 600 people. The population
4 fluctuates with jobs, and I might add also there's a
5 treasury of Beardmore, having money or not for relief
6 and for assurance to live there.

7 Going on with the history of Beardmore,
8 when I arrived in Beardmore in 1957 I have seen
9 striving community of 1,400 people. The community was
10 strictly resource oriented, resource being, on one
11 side, the Leach gold mines and other mines and Leach
12 was the most important one and, of course, the logging,
13 the extraction of timber.

14 When Leach mine closed down in '64 or
15 '65, I think, of course many people left looking for
16 other opportunity of employment, but industry stayed at
17 that time fairly stable. In forest management, I have
18 seen probably more than a dozen logging camps operating
19 in the areas on the St. Lawrence licence, previously
20 Brampton, then the Abitibi in the northern part, in
21 this area here. The St. Lawrence logging occurred
22 mainly around the community. (indicating)

23 This gradually is changing and in the
24 last -- or have changed. In the last dozen or so
25 years, we see tremendous decline of resource due to the

1 logging because the mechanization of logging obviously
2 affected a number of people required in the logging
3 operation.

4 The mining industry, since Leach left,
5 has been revitalized on and off by heavy subsidy by the
6 government which, in some cases like -- oh, I would
7 say, six, seven years ago, helped with \$2-million to
8 revitalize the mine, but of course this \$2-million run
9 out pretty quickly, so the mine shut down, the people
10 became unemployed. And since then up to now we can see
11 all kind of -- hear all kind of rumors that they may
12 open up again or revitalize it, but so far it was
13 fairly futile.

14 One of the interesting things which I
15 think is fair to mention that resource industry
16 frequently, due to strictly economic reasons, to the
17 benefits, move out of a community, stopping development
18 of -- destruction of the resources and investment money
19 in many other areas which yield more profit.

20 Just a few days ago, I have heard that
21 the company which has properties in Beardmore, partly
22 from the Leach properties and partly on the Empire Mine
23 properties and so on, I don't want to go in detail, but
24 invested heavily curtailing the operation in Beardmore
25 and invested heavily in the pulp and paper enterprise

1 in Siberia. They are going to build a new pulp mill
2 there and apparently they are going to -- as a matter
3 of fact, I have seen approximately, oh, close to half a
4 million cords will be produced in Siberia.

5 Of course, when people know this it makes
6 them jittery and ask very basic questions and here
7 comes the role of the Society, the purpose of Society
8 exists. Many of the Society members, as provided in my
9 evidence there, are people who work, involved one way
10 or the other in these extraction industries.

11 Q. Including timber management, Mr.

12 Marek?

13 A. Including timber management. Some of
14 the members are fishermen, some of the members are
15 operators, tourist operators, some of them are just
16 members of the Society which -- well, large portion of
17 society is retired people, including myself. This
18 concerned, of course, led to building of the group
19 which deals with the issue of the day, that may be the
20 logging, it may be the industry mining, it may be
21 fishing, discuss it in board meetings and in general
22 ask for help, to help to maintain the community, make
23 the livelihood. Some of these people have children,
24 they are staying with their parents in the community
25 frantically looking for jobs, but the jobs of course

1 are not there.

2 I think it's incumbent of any pressure
3 group in this country -- fortunately problems were
4 discovered in our industry, and I'm talking about job
5 general problems, general problem of curtailing down
6 the employment, moving the company out of the territory
7 and move them to Siberia, in this case, what I have
8 just mentioned, brings kind of very nervous atmosphere.

9 And believe me or not, as a consultant to
10 the Beardmore Society, I have discovered that the
11 concern which was not there 10, 15, 20, 30 years ago
12 when I arrived is now very dramatic. People start
13 worrying, people are talking about things. Well, 10
14 years they were employed, they were busy and were not
15 bored, and boredom is a very important part in human
16 development, the strategies of the people become more
17 outspoken, they challenge.

18 Although they challenge, of course they
19 challenge first the institutions which are responsible
20 or active in the resource activities and that is of
21 course the government, this is of course the industry
22 and, as a matter of fact, they even challenged society
23 at large. And when I was asked by the Watchdog Society
24 to become their consultant, I said to them right from
25 the beginning, I said: Look, I am going to consult you

1 on things which I'm aware of, which I am knowledgeable
2 of as a forester, and they gave me the title resource
3 person, George Marek is our resource person. I said:
4 Look, I will not talk about mining, I cannot advise you
5 on anything else but forestry. He says: No, no, you
6 are here for 40 years, you know all these things and
7 you can give us a good advice. So reluctantly I said:
8 Okay, I am going to be your resource person.

9 I must mention here that while this kind
10 of nervousness of the society in general, which showed
11 itself or expressed itself in the pressure group or
12 concerned group of citizens, it presents itself just as
13 well in this society and what I have quite often
14 noticed that there is a certain sense of frustration.

15 The answers or the avenues open to them
16 are limited. Sure, we have open houses, we have
17 contacts between personnel with one party, Ministry and
18 of course the Industry, and many of them were taking
19 place in last three years since I am their so-called
20 resource person, but any of these meetings,
21 surprisingly, didn't meet the expectation and demands
22 of this group. After the official move out or leave
23 the whole of -- the meetings take place, they are
24 usually more frustrated than they were every before.
25 Why is this?

1 Well, they turn to me and say: You
2 worked for government for 40 years, tell us what's
3 wrong with these people, how come we cannot -- I, of
4 course, as the spokesman have a tough time to explain
5 things which sometimes are extremely complex. Complex
6 because we live in a complex society, we live in a
7 society which cannot provide instant answers, we live
8 in a society where government is big business and so is
9 the Industry a big business.

10 We live in a society, Madam Chair, where
11 I remember very well 25 years ago the district manager
12 or district forester at that time could come to the
13 meeting and tell them and everybody accepted.
14 Everybody says: That man was worked here along time
15 and he has got the right answers.

16 Q. Mr. Marek, I would like to direct you
17 to page 9 of the witness statement.

18 A. Page 9 of the witness statement, yes.

19 Q. And the succeeding pages also in
20 which you refer to timber management plan open houses.

21 The last sentence of the paragraph -- of
22 the first paragraph on page 9 indicates that there is
23 an absence of MNR personnel in the field.

24 Now, is that a new development, in your
25 view?

1 A. Well, this is gradual development; it
2 didn't happen all of a sudden. It happened quite
3 noticeably after reorganization of MNR or old Lands and
4 Forests.

5 Q. Excuse me a minute, Mr. Marek.

6 The sentence is the sixth line from the
7 top. Go ahead.

8 A. Because many of the members of the
9 Society are working for the Industry, work for the --
10 they have a firsthand opportunity to see the practices
11 in the field, and while they cannot publicly criticize
12 perhaps certain occurrences, they express their
13 frustration with this issue in the Society itself as a
14 group.

15 Q. Mr. Marek, the next section of the
16 witness statement talks about timber management plan
17 open houses, and I note in the bottom of page 10, and I
18 will just use this as a summary because you spoke about
19 open houses yesterday:

20 "The Watchdog Society has become
21 inflicted with open house syndrome which
22 has provided them with little of value
23 regarding strategies."

24 Then you go on to say at the top of
25 page 11:

1 "When a plan is approved, this is a
2 signal to start a round of amendments to
3 the plan."

4 I wonder if you could indicate to the
5 Board something of the history of problems with plan
6 amendments in that area. I think this is a subject
7 area that the Board has not heard about extensively
8 before.

9 A. I stated here, Madam Chair, that
10 these plan amendments happen frequently, the causes are
11 usually that the company or some other body ask for
12 changes in the present or past directions, and the
13 Society quite often is embarrassed because they get
14 notification of these changes and they are asked to
15 attend meetings and so on and the Society just haven't
16 got the means.

17 They can express very clearly their
18 opinion, but when it comes to down to travel, say, to
19 Nipigon or Armstrong or someplace, who is going to do
20 it. Most of them are working people, people who are
21 not working, of course, are pensioners or people
22 unemployed and it's pretty difficult for them to truck
23 all over the country to attend these meetings and
24 discuss, perhaps to their own benefit, some of the
25 subjects of change.

1 Just to continue the process, the
2 opportunity of the Society to express themselves
3 through these open houses, through these meetings are
4 frequently frustrated. They don't get the answer and
5 they are invited to these public hearings or public
6 open houses, then of course they -- more than one, they
7 sometimes get lost in some of these technicalities
8 because many of these people are not well educated,
9 they have a limited education.

10 They leave these meetings or these --
11 say, the means to communicate, the means to express and
12 respond, these things, they don't find very meaningful
13 and they also find one fact, which of course has been
14 mentioned here before, Madam Chair, the lack of basic
15 knowledge, the lack of experience on the part of people
16 who are interested to communicate on the part of the
17 organization like MNR.

18 May I just typify one of the men who
19 comes here, he's a lumberjack or he comes in and
20 says -- expresses his problem and in discussion he
21 finds very quickly that the fellow has never been here,
22 the representative of the government has never been
23 there, he is not aware of it; that, No. 2, when he
24 says: I just arrived here yesterday or the day before
25 yesterday, immediately the kind of credibility is in

1 ...dangered on the part of the representative because this
2 old fellow says: Well, I'm living here for 65 years or
3 25 years or 10 years and he, more or less,
4 instinctively demands the same kind of knowledge and
5 awareness from the MNR person, for that matter other
6 persons, industry person and so on.

7 So that is a kind of mental block which
8 immediately is visible because observing these things,
9 I am standing there, I say: Oh, oh, there it goes
10 again. You are not old enough or you have not been
11 here long ago and you haven't been there, and so it
12 goes.

13 Q. Mr. Marek, since we are on the topic
14 of the relationship between Society members and the
15 Ministry, I think we could go now to the subject of the
16 tour that was conducted this year between -- with
17 participation by the Society and the Ministry.

18 And, again, my friends may object if they
19 find it unsuitable, but I am going to attempt to lead
20 you quickly the history and then I am going to ask the
21 Board to look at the letter which we filed yesterday as
22 Exhibit 1530 which was written on October 15th of this
23 year by the president and officer of the Society to the
24 MNR specifying their concerns regarding the tour.

25 Mr. Marek, could you tell the Board

1 briefly, please, how this tour was initiated and then
2 how, in the view of the Society members, the process of
3 the tour become changed?

4 A. Madam Chair, this was initiated a
5 long time ago. There was a steady kind of dialogue
6 between the Ministry and different district managers
7 because don't forget in the last three or four years
8 there was two or three district managers, there were
9 two or three different unit foresters and so on. So it
10 goes back and forth just like a harmonica there.

11 Finally, after years of these kind of
12 negotiations the Society directed the letter to the MNR
13 in Nipigon asking them to come and see some of the
14 problems as they perceive it. Again, there was the
15 letter before by the district manager, I think it was a
16 different manager who stated: Well, I'd like to ask
17 you to point out to us some of problems you feel exist
18 and we will be glad to look at these problems and here
19 comes the confusion. Eventually the meeting took place
20 and the Society and the MNR and Industry went into the
21 field --

22 Q. Marek, if I could just interrupt for
23 a second. That tour occurred on September 8, 1990; is
24 that correct?

25 A. That's what I see, October 15th --

1 pardon me.

2 Q. At the bottom of first paragraph, it
3 was in September of this year?

4 A. That's right.

5 Q. Yes. Please proceed.

6 A. When the tour was eventually agreed
7 upon and the date set, the Watchdog Society had to
8 accept the terms of reference for that trip which was
9 not their own agenda, and I think that was the other
10 kind of problem which immediately the Society reacted
11 to and says: They are asking us to show them, them
12 being the MNR and Industry, what is problem, what we
13 perceive as a problem and they bring in their own
14 agenda with all kind of different stops and different
15 cases to be presented.

16 That caused really kind of consternation
17 there and questioning the kind of way Ministry handled
18 these public meetings or trips or so on. So they were
19 faced with an agenda which was not their agenda.

20 Q. Mr. Marek, were you present on that
21 tour?

22 A. Yes, I was present on that tour as a
23 consultant.

24 Q. Thank you. Please proceed.

25 A. The Beardmore Watchdog Society asked

1 me to -- and this has been said to you three times I
2 think - that I will be there as a consultant in case
3 professional forestry matters will be discussed and so
4 on. So I did.

5 If I may continue now. We went out with
6 vehicles, some vehicles were supplied by the Ministry.
7 As a matter of fact, I think they even offered a free
8 lunch or something, I don't even know, I always carry
9 my own lunch. We stopped at places designated by the
10 agenda and seeing the situation as it arrived and
11 seeing the atmosphere you immediately say: Oh, oh,
12 that's going to be a tough one here because inside of
13 these people - and there were I think 12 or 15 people
14 from the Society which took time off from the job, as a
15 matter of fact, one or would of them - there will be
16 kind of confrontation atmosphere, and so we went stop
17 by stop and the Ministry showed us the culverts they
18 put in, they show us the bridge which cost so much.
19 Immediately people say: Well, that's not the right
20 price. They paid more for it, we don't believe that
21 and so on.

22 Q. _ Mr. Marek, is it fair to say that the
23 Society's opinions of what was seen on the tour are set
24 out in the letter that has been filed; is that correct?

25 A. Yes.

1 Q. Please proceed.

2 A. I think I don't have to describe
3 these stops because some of these stops are in the
4 slide presentation which were given to you in
5 Geraldton.

6 You were in Geraldton and you have seen
7 by Mr. Edward Lavoie and some other members?

8 MADAM CHAIR: Yes, we have, Mr. Marek.

9 THE WITNESS: Yes, I don't think I have
10 to go through it. But perhaps I can say the result of
11 these things were further kind of distress, that many
12 of these people say: What's the point even to go out
13 with them when the agenda or, as a matter of fact, the
14 request or the opinion of these people was mitigated in
15 such a way that really the presentation was not true
16 expression of people of the Society.

17 The Society asks: We'd like to present
18 to you the problems and Ministry immediately step in
19 and says: No, we are going to show our good things,
20 our positive things. It has been expressed by the
21 district manager in few words saying exactly that:
22 We'd like to show what we have achieved.

23 And one member as well says: That's
24 fine, we know that you put that bridge there, but we
25 are not interested in that. So it mirrors kind of the

1 situation where MNR perhaps is speaking their own
2 language and that society, in this case the Beardmore
3 society, is speaking their own language.

4 Q. Now, Mr. Marek, I would like to ask
5 you to turn to page 5 of the letter, please, Exhibit
6 1530.

7 A. Will you repeat it again?

8 Q. Page 5 of the letter, please.

9 A. Page 5 of the letter.

10 Q. And I would like to refer you and the
11 Board to the fifth paragraph:

12 "If the MNR had been prepared to follow
13 our agenda and if the MNR had been
14 prepared to acknowledge that our concerns
15 have some credibility, then perhaps we
16 might have been prepared to say that the
17 system is at fault. The people who make
18 the policy at the higher levels of
19 government need to recognize realities.
20 When, however, the MNR and Industry
21 representatives tell us that we are at
22 fault and that we are being negative and
23 that our concerns lack credibility, then
24 we feel anger and frustration. Then we,
25 the MNR and Industry become adversaries

1 not allies. Meanwhile the forests
2 suffer."

3 Now, Mr. Marek, do you have any comments
4 on that paragraph with regard to the views at this time
5 of the Watchdog Society members?

6 A. Madam Counsel, I already expressed
7 it. There is an atmosphere of uncertainty, there's
8 atmosphere of distress and kind of atmosphere which is
9 definitely not positive and fruitful to improve our
10 forest management practices and the relationship
11 between the manager, and I'm talking in this case the
12 MNR, this organization, which is the one and only one
13 responsible for the management of our province, of our
14 forests, and it just is not not very fruitful.

15 MADAM CHAIR: Mr. Marek, in the situation
16 of this tour, do you think it would have been more
17 fruitful had MNR simply listened?

18 THE WITNESS: This is expressed in the
19 pages here very clearly that the Society expected that
20 that will happen and it didn't happen, so they are
21 disappointed. They are frustrated, yes.

22 If MNR -- well, may I add one or two
23 paragraphs to it, and I don't want to reorganize MNR
24 right now. It's obvious, Madam, that - I said it dozen
25 time already, but I have to say it again - if MNR ever

1 wishes as custodian of our forest to establish
2 meaningful relationship, surely we should learn
3 something from the basic relations in the family or
4 society that, No. 1, we have to listen to each other
5 and understand exactly what we are talking about; and,
6 secondly, that we have to establish certain continuums,
7 continuums of the approach.

8 And I think what handicap really MNR -
9 and I don't think it's bad as Industry - Industry have
10 quite a -- you know, they have people in the field
11 sometimes for longer period of time, but MNR is
12 notorious to change managers every second day or every
13 second year and, of course, then that cause the
14 beginning of the problem.

15 Q. Mr. Marek --

16 MR. MARTEL: Is there -- hang on. Is
17 there, in your opinion, in MNR, not just now that you
18 might have seen over the years, that groups such as
19 Watchdog or a group of citizens who get organized - in
20 fact I want to express this carefully - there is some
21 disdain for the groups that come before them, that the
22 Industry knows better or that the Minister -- I mean,
23 that the MNR knows better, and that groups that come
24 forward you deal with, but you really don't like
25 dealing with, it's just kind of a pain.

1 THE WITNESS: Yeah.

2 MR. MARTEL: Is that the attitude that I
3 think you're trying to drive at, that that's the sort
4 of changing relationship you want, that it isn't just
5 that some groups bothering us and we respond to them
6 but, in fact, we deal with them in a more positive way?

7 THE WITNESS: I think this is very
8 important factor and I think that -- Mr. Martel, I
9 don't have to, I don't think I should dwell positive
10 and negative results of reorganization 1972, but as a,
11 you know, long-time civil servant I was directly
12 affected and I objected to it because I saw exactly
13 what you are saying, that this going to happen, all of
14 a sudden you have an image of MNR or Lands & Forests,
15 which were the old type of veterans - there are lots of
16 veterans that work over here - there were lots of
17 people who work there as district rangers or that kind
18 of staff which were there with the organization long
19 time established certain rapport, there was certain
20 problems but, in general, there was rapport. That
21 rapport was, in some cases, taken for granted, it is
22 clear.

23 Now, 1972 when we talk reorganization, I
24 was a member of this team and I don't like to remember
25 some of the discussion we had because it was obvious

1 that the Government of Ontario trying to follow
2 Industry's corporate image, and I wonder if you perhaps
3 realize that corporate image is in the mind of man, of
4 working man something which always is someone other,
5 you know, look at union management relationship and you
6 are experienced in that.

7 Madam Chair, when this happened and
8 drastic changes in the attitude of these new civil
9 servants entrusted and they say: It's going to be
10 beneficial because we going to reorganize in order to
11 decentralize, in order to have it - and I can quote
12 some of the phrases - which were Magna Carta of
13 different relationship, getting closer to the people,
14 you know, we want to have a better rapport, we want to
15 do. Just opposite happen, and that's tragedy of many
16 of these "reorganization", that instead of bettering
17 the situation, you worsen it.

18 And I have noticed that personally as a
19 civil servant, and I have sometimes thought: Was it
20 really necessary to put this kind of mental block
21 between the civil servant and the public, because I was
22 restrained after 1972 under new organization, and that
23 was industrial type corporate image, Toronto is
24 managing and you are doing exactly what you are told.

25 The freedom which was promised to civil

1 servant and freedom to the public also to express
2 themselves vis-a-vis the civil servant was restrained.
3 You are not talking to the public, you are not telling
4 what paper should have been told, you are following the
5 marching direction and you are there to obey orders.

6 And results are - Mr. Martel, you express
7 it very well - here is a separation which doesn't
8 happen only in forestry, I suppose it's happening in
9 other way of life too, but it's frightening that it
10 happen on that level which was promised salvation.

11 We were promised just a completely
12 different -- there was books written, Management by
13 Objective, and you know very well, which came after
14 70s, and some of the ideas, there were public relations
15 and everything, and all of a sudden that whole thing
16 turned against the organization paradoxically and we
17 are faced now, after 1970, 18 years, dilemma: How we
18 going to approach or how we going to get public back
19 again, how we going to make it go?

20 And I think the answer partially is
21 politics because it was political move in 1972, and I
22 am fully aware of ramification and now, of course, we
23 have to reverse it somehow in order to get better, if
24 somebody wants to do it, I don't know if we are really
25 sincere in that, but I think it's going to have to be

1 political.

2 MS. SWENARCHUK: Mr. Martel, you might
3 find it helpful in following up this thought to look at
4 the quote on pages 29 and 30 of the witness statement,
5 a quote from --

6 THE WITNESS: Madam, I have a problem to
7 hear you because I am deaf in one ear and I am turning
8 my left side to you. Would you scream.

9 MS. SWENARCHUK: I was telling Mr. Martel
10 that on pages 29 and 30 of the witness statement - it's
11 not really necessary for you to turn to it, Mr. Marek -
12 just for his assistance, there is a quote from Bella,
13 quoted in the Re-designed Forest by Chris Mazer who, as
14 you will know, will be a witness before you in Forests
15 for Tomorrow's case, having to do with organizational
16 distortions, and you may just find it useful to connect
17 that thought to the issue before us.

18 Q. I would like to turn now, Mr. Marek,
19 back to the witness statement - if Mr. Martel is
20 satisfied with the discussion to date - and I would
21 like to direct your attention, please, to the issue
22 which is described on pages 5 to 8, that is, changes in
23 forest productivity in the vicinity of Lake Nipigon and
24 its Watersheds.

25 And I believe, Mr. Marek, that you have

1 through your slide presentation illustrated many
2 concerns in the vicinity of Lake Nipigon on that issue.
3 I would like you, however, to assist the Board with the
4 concept of protection forest reserve and harvesting in
5 that reserve.

6 If you would look, please, at the bottom
7 of page 7 of the witness statement and the top of page
8 8, I will just read the quote in context and then ask
9 you for some comments.

10 "Unsuitable areas are interspersed
11 throughout the whole area of the Lake
12 Nipigon Watershed. Especially
13 vulnerable, however, is the watershed
14 just north of Lake Superior. There are
15 several hundred square miles of extremely
16 vulnerable sites. Approximately 50 per
17 cent of the total areas is classified in
18 the FRI as protection forest reserve.
19 these are being proposed for normal
20 operations by Domtar in the timber
21 management plan under preparation."

22 Could you explain first for the Board,
23 Mr. Marek, what type of land is classified in the FRI
24 as protection forest reserve?

25 A. Just to bring your attention, Madam

1 Chair, where this area is, it's here. Well, that has
2 many areas of the same nature throughout the whole
3 boreal forest, but the concern is mainly here, because
4 along the north shore, right throughout here; in other
5 words, on the east side of Nipigon River towards -- way
6 back to Marathon, the whole north shore, has been
7 heavily glaciated, heavily subjected to glaciation, the
8 soils were stripped down and lots of open bare rock
9 sites are present in that area.

10 Now, I said several hundred square miles.
11 I know very well you say how many square miles and so
12 on. May I point out to you -- to the Board, that this
13 area go right through here, right through the whole
14 north shore, and there are indeed hundreds of square
15 miles of these areas which are classified as protection
16 reserve -- protection forest reserve and, indeed, as I
17 described there, bare rock is the frequent occurrence
18 on these sites, the growth is not very good, one could
19 express due to the glaciation, some of these sites were
20 not -- are not very productive, and it's a concern to
21 the people who see this area being clearcut, and some
22 of them are not even treated after because they are
23 untreatable, they are bypassed by treatment because
24 what are you going to do with bare rock and few patches
25 of organic material which is under that.

1 That is a concern and many people who
2 travel through these area say: Do we really have to
3 subject these sites to such a rough treatment.

4 Now, silviculturally speaking it's a
5 dilemma, if you clearcut area which has 40 per cent of
6 bare rock, and that is the classification for PFR that
7 40 per cent, 40 per cent of the bare rock is visible,
8 when you type these area in FRI, in the inventory, and
9 the answer to this, as far as I am concerned, is very,
10 very careful logging, it's going to be logging which
11 going to be very restrictive; in other words, you going
12 to have lots of small cut, small area clearcut
13 management if you ever go in there, and some of the
14 area, indeed, has to be bypassed because the damage to
15 this area would be severe, so should be left standing.

16 Q. Now, Mr. Marek, as a lay person when
17 I see the term protection forest reserve, that suggests
18 to me that that is forest that is going to be subject
19 to reserve and not harvest.

20 A. Well, that is the original
21 interpretation, Madam, but there's a different
22 connotation now in the present system and I sometimes
23 wonder if these kind of sensitivity or fragility of
24 sites should be expressed different ways and different
25 classification.

1 Perhaps these area should be taken, some
2 of these area - I am not talking all areas - but some
3 of them should be taken out of production and should be
4 classified probably different way.

5 Q. Now, you've said at the top of page 8
6 that they are proposed for normal operations. What is
7 the problem, in your view, with harvesting this area by
8 these methods?

9 A. I just said that, Madam Chair. As I
10 said, these sites are extremely shallow, these sites
11 are extremely fragile and sensitive and when you impact
12 on them this "normal operation" the damage will cause
13 the degradation of these sites and it's difficult to
14 consider that in future these sites will be producing
15 something similar to what they were before; in other
16 words, drastic changes will occur. That's what I mean
17 by that.

18 Q. I want to turn now to Section B of
19 your witness statement which begins at page 13 -- of
20 the Beardmore Society witness statement which begins at
21 page 13 and refers to timber management strategies,
22 Lake Nipigon Integrated Resource Management Plan.

23 And the first issue discussed there is
24 the question of logging on the Lake Nipigon Islands.
25 Could you describe, please, the Society's concerns with

1 regard to this issue and whether or not they have been
2 resolved to date?

3 A. Well, it all began - and again,
4 Madam, may I point out the location of these islands
5 into Lake Nipigon, there are some large islands, there
6 are some small islands - several years back, I think it
7 was '86, the community of Beardmore got a notice
8 overnight and that was prior -- prior to the Watchdog
9 Society's initiation, or the beginning, that MNR
10 contemplates to log the areas of the islands,
11 and what the people find out later on is that
12 contractor already is embarking on to begin the
13 operation on the island -- on the islands, and his
14 barges and that was the means to transport that logged
15 material from the islands to the shore.

16 And many people got really upset about it
17 and thanks to Jack Stokes who actually dug into,
18 otherwise I don't think would have been even noticed
19 because it was Jack Stokes the former MPP - you
20 probably remember, or Mr. Martel should remember - who
21 pursued this matter and went to these operators and
22 says: Look, you fellow are trying to do something. Oh
23 yeah, it's all clear with MNR, next week we are going
24 to start logging.

25 So he came to Beardmore and starts ring

1 the bell, ring the alarm and said: Look, you fellows
2 if you have any input into, or what do you think of it.
3 So it was politician there who actually got into to.

4 And so meeting in Beardmore was gathered
5 in the curling club and I remember there was 150, 200
6 people, lots of people, in attendance were the MNR
7 representatives, and I don't think Industry was there,
8 just MNR and the subject was "discussed", that's how we
9 discuss it.

10 So people got very excited and said
11 straightforward, no logging on the islands. And, of
12 course, immediately the MNR said why, and there it goes
13 free for all. For all afternoon, late in the evening
14 battle ranged about the cutting on Lake Nipigon
15 islands.

16 Madam Chair, it was a tragic comical
17 situation. Perhaps one of these days I am going to
18 write comics on it, because what's happened was it was
19 MNR insolvable situation promising the Industry to cut
20 there, it was all cooked up, all set, people didn't
21 know anything about that, extremely concerned about the
22 moose and about the fishing and about the logs in the
23 area there and talking about driftwood.

24 And so all these things came up including
25 very high water levels and Hydro, and so it was all

1 coming, but it was nothing resolved. There was an
2 opinion of Ministry for reasons such - I don't want to
3 go in these reasons - matter of fact, one of the
4 reasons was improvement of moose habitat, but nothing
5 was resolved, but it cause a big excitement, alarm, and
6 everybody was cursing and swearing with the Ministry
7 and poor district manager he was knocking around and
8 that.

9 The fact was and the fact is that
10 actually this, that was first event which started this
11 kind of Watchdog Society, let's get together and let's
12 force the issue and so on, but to the political
13 interference by Minister - and you know who it was,
14 that was Mr. Pope - the message got clear hearing in
15 the Parliament or clear to the higher political levels
16 and it was stopped in matter of hours because a member
17 on the Watchdog Society - and I am interpreting their
18 feeling - because we raise the hell with MNR, because
19 we said no. That is nothing new, that's happening all
20 the time this.

21 Q. Now, Mr. Marek, in the source book to
22 the witness statement you have the Lake Nipigon
23 Integrated Resource Management Plan--

24 A. Right.

25 Q. --proposals from 1988. This plan is

1 still in preparation; is it not?

2 A. No, I don't think so, I think they --
3 I may be wrong here, but I think it's -- there is in
4 place the integrated --

5 Q. It's now approved; is it?

6 A. I couldn't tell you if it's approved
7 or not, but we have definitely the statements here
8 which deals with the management of surrounding areas in
9 Lake Nipigon.

10 Q. Okay. Would you turn to page 34,
11 please.

12 A. 34 of the witness statement?

13 Q. That's right.

14 A. Watchdog.

15 Q. Yes.

16 A. Source book.

17 Q. Yes, the IRM.

18 A. Source book.

19 Q. I will find it.

20 A. Yeah, Lake Nipigon. Okay, thank you.

21 MS. SWENARCHUK: Page 34 of the plan,
22 Madam Chair.

23 MADAM CHAIR: Of the IRM?

24 MS. SWENARCHUK: Yes. We can see from
25 the front of the document, Madam Chair, on the forward

1 it's approved, that the plan is approved.

2 THE WITNESS: Yes.

3 MS. SWENARCHUK: Q. All right. Back on
4 page 34 then, the last two lines of the page indicate
5 that:

6 "No timber activity will be permitted on
7 the Islands of Lake Nipigon."

8 A. Mm-hmm.

9 Q. Is the Society now satisfied that
10 that problem has been resolved?

11 A. I think that was great satisfaction
12 there that the islands, the islands will not be logged,
13 will not be logged.

14 Q. Okay.

15 A. But may I point out you that the
16 Society and many other people I talked to, they said:
17 Well, they do it now, we got to be very careful so they
18 won't change it or amend it. So this is just a quip.

19 Q. All right. Now, while we are on that
20 same page, several lines above in the same paragraph we
21 see the statement:

22 "Timber operations may take place within
23 300 metres of the main land shoreline."

24 A. Right.

25 Q. Now, I understand that the Society

1 has concerns about that which you have written about in
2 the witness statement?

3 A. Mm-hmm.

4 Q. And could you explain briefly for the
5 Board the Society's concerns?

6 A. Well, the Society's concern in
7 general, they feel that the traditional reserves which
8 was 1,000 metre, one kilometre around Lake Nipigon,
9 it's traditional, it goes for last 50 years or 60
10 years, it was enacted then, has been disturbed that way
11 or amended, let's put it that way, but the concern is
12 as follows, we talking about logging in close vicinity
13 of lakeshore, Nipigon. They are very sensitive. There
14 is only few beaches, most of it is very rocky, very
15 precipitous.

16 The Society feels that this is not -- the
17 logging will cause damage as practised today, the
18 Society feels that the so-called normal operation are
19 not operation which are justified to be conducted in
20 the vicinity of Lake Nipigon, period.

21 Now, at several meetings the Society had
22 with unit foresters and public interchanges, the
23 foresters are saying they cannot dictate or the manager
24 cannot dictate to the loggers what equipment they are
25 going to use and, even if we could, it's unrealistic

1 because the normal operation and the normal equipment
2 which is being used is frequently damaging the sites
3 and regardless how careful you are the damage will
4 occur.

5 They persist and they document it in
6 several letters since, Madam Chair, that if the
7 planning process will continue as such, they are going
8 to be strenuously objecting any cutting around the
9 shores of Lake Nipigon.

10 One thing which actually bring up these
11 things, again, is some of these process and some of the
12 happenings during the planning process. For instance,
13 on the north side of Lake Nipigon in this area there
14 are large area of swampy land which - and I have seen
15 them myself - is habitat for caribou. Now, caribou is
16 a very protected species and a lot of people get
17 excited about it, but Society immediately connect these
18 things, cutting, regardless how it's being done, normal
19 operation, with the well being of the caribou herd.

20 So you have another issue on top of other
21 issues which not satisfactory answer have been provided
22 to the Society by the MNR or, for that matter, by the
23 company.

24 One of the mitigating process there was,
25 well, we are going to cut it modified cutting pattern,

1 strip cutting as I was showing yesterday. Well that is
2 great, fine, but do we really know if that going to
3 affect the well being of the caribou.

4 Research is being done frantically now
5 into the caribou guidelines and I understand that some
6 guidelines are being now prepared - or I don't know if
7 they are published or not - but talking to the
8 biologists, they work on it.

9 Now, how satisfactory this will be with
10 Society is clear, they reject any cutting in the
11 closeness of this vicinity because they feel that these
12 sites, which is mostly swamp land here, will disturb
13 the caribou sufficiently that they will move out or, in
14 some cases, they will be even harvested by native
15 people and by mistake by some hunters because there is
16 quite a few caribou there, some people say shoot it
17 because they think it's a moose, so down it go.

18 So anyway these concerns about these
19 protective measures around the Lake Nipigon, including
20 the reserve of 300 metres which will be now "to this
21 planning" can be harvested or can be considered as
22 harvestable is a big issue, and it's not -- it didn't
23 get resolved yet.

24 The other problem, Madam Chair, is
25 harvesting on some of these peninsulas. As you can

1 see, large peninsulas are going into Lake Nipigon,
2 there are two or three of them, and at the last open
3 house in Geraldton I attended for the Society, the
4 forester in charge is proposing harvesting there. It
5 came again to quite furious exchange of idea, should be
6 harvested, not to harvest it, but the proposal is
7 there.

8 Obviously the timber types to be
9 harvested has been designated in the planning process.
10 I don't know if the input of district biologists was
11 taken in consideration, is that approved by the Board,
12 but the fact is, when you bring these problems with
13 these kind of connotations, well we are going to be
14 cutting there, immediately you have a conflict, you
15 immediately have a confrontation.

16 Q. Mr. Marek, what is your view with
17 regard to whether these sites, first of all, within 300
18 metres of the shoreline should be harvested?

19 A. We started first with these fragile
20 sites here north of Lake Superior right through here,
21 and then we are going over here, there are two or three
22 different areas to be cut. Let's deal first with the
23 areas of the bay or of the northern part of Lake
24 Nipigon there.

25 Q. Is this the area that you described

1 in your witness statement as the Windigo Bay area?

2 A. That's correct, Windigo Bay.

3 Q. That's on page 17 of the witness
4 statement, Madam Chair.

5 A. It's the north shore area of
6 Ombabika Bay and the rivers flowing into the northern
7 part here, so it's area approximately, I would say, at
8 least 30 miles.

9 MR. FREIDIN: I'm sorry, what area are we
10 talking about now?

11 THE WITNESS: We are talking --

12 MS. SWENARCHUK: This is the Windigo Bay
13 area, Mr. Freidin, which is described at page 17 of the
14 witness statement and is also illustrated in Appendix 3
15 of the witness statement.

16 MR. FREIDIN: Thank you.

17 THE WITNESS: North of Lake Nipigon.

18 MS. SWENARCHUK: Q. Please proceed, Mr.
19 Marek.

20 A. Well, knowing the area fairly
21 intimately, I worked there, I was there several times,
22 and it's a swampy area of lands which do not produce
23 very good timber growth. The other thing which we must
24 consider that it's a drainage pond or drainage
25 watershed for many little streams and rivers, small

1 rivers draining into Lake Nipigon and being organic
2 sites in the majority of the site conditions; in other
3 words, heavy peat layers, organic material which always
4 become fairly volatile and will be affecting the
5 streams into the bay from strictly point of view of
6 what's going to get into Lake Nipigon worries many
7 people.

8 They said -- they feel that lots of that
9 silt or lots of that organic material which contains
10 lots of mercury, we know that, and it will be washed
11 into Lake Nipigon, so if any logging will be done
12 beyond this 300 metre "solid reserve" which, of course,
13 again is described here as an area which could be
14 logged. So you are talking about double kind of double
15 whammy here.

16 The Society feels very strongly that if
17 any logging is being done, it's got to be done in such
18 a manner and with such equipment that indeed will not
19 jeopardize the farther input into Lake Nipigon.

20 Q. Mr. Marek, what is your view with
21 regard -- your professional view with regard to the
22 question of whether or not there should be logging
23 within 300 metres of the shoreline in such areas?

24 A. I think the 300 metre in this case,
25 Madam Counsel, is not sufficient enough. When you have

1 a watershed with such a large body of water into the
2 north part of Lake Nipigon you have to encompass larger
3 area, protective area.

4 Now, logging operation wouldn't protect
5 it, but let's again go back in documentation, and I
6 know there is such a great infrasystem document really,
7 is that good or is that bad, or is that 300-foot or
8 3-metre reserve sufficient, and Industry feels very
9 strongly that they have a right on any timber in the
10 area.

11 My opinion is that not sufficient study
12 has been done on the area itself and that probably
13 should have been done. I think that with better
14 documentation of the dynamics of these sites and the
15 possibility of disturbance and magnitude of disturbance
16 and effect of it should be researched long time ago.

17 We have tried to initiate these studies,
18 oh, 15, 20 years ago, I remember having several
19 biologists looking at these problems, and it was
20 recognized it's going to be problem one of these days.
21 Nothing has been done since.

22 So the same applies more or less to
23 answer your question, Madam, the logging on the shores
24 on the fragile sites north of Lake Superior.

25 This is large area which has been

1 discussed with the company and Ministry since I
2 remember. We even -- some of these people from MNR,
3 the top, they said: Well, let's designate as kind of
4 special area where specific precaution and specific
5 protective measures should be taken. Well, it didn't
6 happen and it's a part of normal operation, it's part
7 of the area which will be logged and with the
8 initiative of Ministry to subsidize the last few years
9 the logging and the construction of road, we see that
10 due to the closeness to the mill here, due to the
11 already present established success, the logging shall
12 continue.

13 And while it's in the ground rules and in
14 the prescriptions which I re studied, supplied by
15 Domtar, these area shall be strip cut or shall be
16 treated by some kind of small area clearcut management.
17 I don't see too much of evidence that is being done.

18 Q. Now, Mr. Marek, I want to bring you
19 back to the Lake Nipigon shoreline again. I think you
20 spoke -- perhaps just clarify, you spoke particularly
21 with regard to the Windigo Bay area and 300 metre
22 reserve which you consider insufficient.

23 With regard to the remainder of the
24 shoreline of Lake Nipigon, do you consider that timber
25 operations should be permitted within 300 metres of the

1 shoreline?

2 A. Absolutely not. I think that 300
3 foot or 300 metre reserve should be declared as
4 untouchable. There shouldn't be any doubt at all, in
5 my mind, because we just don't have appropriate
6 equipment, we just don't have proper attitude to manage
7 this area.

8 Now, in turn, Madam Chair, may I point
9 out to you that there are other ramifications, but the
10 logging. These ramifications, the exploration can be
11 allowed there also and any exploration means heavy
12 disturbance, very severe disturbance to the site
13 because you put tractors in there and expose the
14 mineral soil, expose the rock.

15 As a matter of fact, in the last three
16 years the damage to some of these site was tremendous.
17 Just a few days ago I was looking at "access" done by
18 the explorer there, he just took a bulldozer, bulldozed
19 the swath of timber there and they take the drills in
20 and it has established all kinds of condition which I
21 didn't think should be allowed period 300 metres from
22 the shore of Lake Nipigon.

23 This is very questionable and I have
24 experienced having several damage done in the
25 plantation, and I will be talking more later on. We

1 cannot control the exploration mining industry. We
2 just go through, start bulldozing everything. If it's
3 a plantation or if it's timber, they just go to it. We
4 have no cutting permit apparently, as I see it, but I
5 don't know how well this is supervised, how well it
6 actually works in practice. In fact, heavy damming has
7 been damaged in the plantations I have established and
8 I just thought it was clearly senseless.

9 MS. SWENARCHUK: Madam Chair, I just want
10 to bring to your attention for your assistance that the
11 Society's comments on Lake Nipigon and its environment,
12 timber harvest environmental problems and specifically
13 reference to harvesting within a 300-metre area of the
14 lake is set out in the letter that was Appendix 2 to
15 the witness statement.

16 Q. Now, Mr. Marek, would you please look
17 at page 18 of the witness statement.

18 A. Page 18?

19 Q. Yes. And the second paragraph refers
20 to an issue that has been raised previously before the
21 Board, but I want to clarify its status with you at
22 this time and that is, a proposal in the -- a proposed
23 amendment to the Nipigon District Land Use Guideline
24 which will remove the 120-metre no-cut reserves in the
25 Caribou Lake of the district and actively manage these

1 areas using approved guidelines.

2 As you can see, Madam Chair, Mr. Martel,
3 Appendix 6 to the witness statement contains the
4 Society's comments on this proposal.

5 My question, if you could just look at
6 paragraph -- at Appendix 6 for a moment. This is at
7 page 49 of the witness statement. Page 49, Appendix 6.
8 If I could just direct your attention, Madam Chair, Mr.
9 Martel to the third paragraph of the letter:

10 "The amendment of the present 120-metre
11 full reserve along the portages,
12 including the streams and lakes, in this
13 specific area of zone 10 would lean
14 inevitably to the deterioration of many
15 other values, specifically tourism
16 values. We were under the impression
17 that the MNR is mandated to protect
18 these values. The implementation of this
19 amendment would be evidence of the
20 paradox in the role of the MNR and Crown
21 land management."

22 Mr. Marek, does this represent the views
23 of the Society to this day on this question?

24 A. Yes, it does very well.

25 Q. Could you indicate for the Board

1 whether this issue has yet been resolved?

2 A. No, the management of the plan itself
3 isn't working; in other words, I think Domtar works on
4 it for the Armstrong unit, and the concern has been
5 expressed to the Nipigon District and their
6 representatives several weeks ago again, that the value
7 of these portages for access to the lake should be
8 protected by rather leaving it uncut than cut.

9 Again, I go back to the problem that the
10 so-called normal operation do not represent operations
11 which will enhance, obviously enhance the value and the
12 reason these portages or access are there, and it will
13 probably leave quite a mess.

14 So from the view of the members and,
15 again, this is quite far away from Beardmore, it's a
16 portage north of Lake Nipigon, is that they feel
17 strongly they should act in favour of improvement
18 rather than deterioration of these access routes and
19 portages.

20 The meeting with MNR was interesting
21 because this is a place where again the conflict was
22 expressed, the confrontation was expressed where the
23 Society said: We don't want to have these portages
24 subject to logging interference, and the Ministry and
25 unit forester expressed very clearly that that

1 institutes poor forest management practices. He said
2 something like this: There's lots of valuable timber
3 there and we need allowable cut.

4 As a matter of fact, the allowable cut is
5 being increased, I understand, in this unit for reason
6 I suppose wood supply, chips, again into the Domtar
7 mill.

8 So there are two conflicts, Madam Chair,
9 which has to be discussed and somehow resolved. Now,
10 the results are pending as yet and I don't know which
11 one this way this is headed, but the position of the
12 Watchdog Society is very clear that they feel that
13 these places should be protected and that "normal
14 operations" or even the operation which will get the
15 status of sensitive area, whatever we may call it, does
16 not justify the changes.

17 Q. Now, the next sections of the witness
18 statement.

19 MR. MARTEL: Can I just ask a question.
20 Are they talking about clearcutting or are they talking
21 about selection cutting or what in this area?

22 THE WITNESS: Well, you ask the question.
23 I'm not the manager there, obviously, I'm not planning
24 and I'm not involved in the process of timber
25 management, only as a spokesman for the Society, but as

1 a forester may I point out to you that selective
2 cutting is probably out of the question. Selective
3 cutting requires completely different approach and
4 perhaps justifiably in some cases, is not applicable in
5 our boreal forest condition.

6 On the other hand, though, Mr. Martel,
7 knowing very well the situation available to us, the
8 options available to the Industry are limited because
9 we haven't got equipment which could really
10 satisfactorily -- I pointed it out yesterday and I will
11 just repeat it.

12 So the other thing is that if, if we have
13 situations where that timber is absolutely necessary;
14 in other words, you have to stay close to the mill
15 because I will not get this areas harvested, then we
16 are of course in a situation where we may say: I'm
17 justified to do so close to the mill really for extra
18 few cords or few hundred cords coming from this
19 lakeshores and portages being harvested.

20 Well, we didn't deal with that issue as
21 yet because nobody can tell us: Can company really
22 present a case to the public where they say I have a
23 God's given right, God's given right for every tree in
24 Ontario under the licence.

25 It seems to me the statements by the

1 Industry and, to some degree, government states: Yes,
2 we have because that area is under licence, the wood
3 was promised, the promise I suppose can be interpreted
4 in many case. Dom -- I nearly said Domtar. Yes,
5 Domtar, is paying Crown dues, Domtar is paying land
6 charges, management charges by virtue of the licence,
7 so many pe square mile, so many dollars is turned into
8 the treasury of Ontario, and say: This is under
9 licence and we have a right to harvest the wood.

10 Now, is that their really total right
11 and Minister can at any time intervene there, can say:
12 No, this area is excluded. As you know, that's right
13 in the Timber Act and also in the licence. The
14 Minister, by sheer power, being the top manager can
15 come and say: Out, this will not be harvested or this
16 will be left. The minister can do that, it's right
17 there.

18 However, it's interesting how this is
19 interpreted by the MNR and the licensee vis a vis the
20 public who says: I am the master, people of Ontario
21 will decide what will be harvested or not, and I think
22 that is a basic conflict which has to be resolved, that
23 sooner or later with the demand of other users, if it
24 is for aesthetics or for strictly resource purpose,
25 that somebody else has a right to harvest, fish,

1 timber, that we are going to be dealing eventually to
2 say: Okay, here are the conditions, such and such
3 here, sorry, fellows you cannot get in.

4 If you have an economic analysis, do you
5 have to have a process going through stages, I don't
6 know, but sooner or later this will happen in order to
7 avoid this conflicts.

8 MS. SWENARCHUK: Q. Now, with regard to
9 the Society's concerns regarding silviculture in the
10 area in general, I think, Mr. Marek, your slide
11 presentation and your previous testimony cover these.

12 I just would like you to explain one
13 element of the witness statement for the Board, please.
14 Would you look, please, at page 23 of the witness
15 statement, the second paragraph.

16 A. 23?

17 Q. Yes. This is in the context of a
18 discussion of the MNR spruce budworm strategies and in
19 the second paragraph you have said:

20 "Some of these operations result in high
21 grading and/or harvesting of 50 to 70
22 year old white spruce."

23 Then if we turn to Appendix 5
24 which is at page 47 and 48, we see a letter from Mr.
25 Swant, chief forester of Great West Timber. Page 47,

1 Mr. Marek.

2 A. Mm-hmm. You got me lost, ma'am.

3 There are so many page in this thing that...

4 Q. It's in the witness statement, Mr.

5 Marek.

6 A. I'm going to need a secretary here.

7 Q. All right. This is a letter from Mr.

8 Swant to Mr. Phillion of MNR, and I wonder if you could
9 explain what the letter signifies and why you included
10 it in the witness statement?

11 A. Yes. This presents another dilemma
12 in the management of certain sites and concern
13 conditions in the boreal forest.

14 And while I'm fully aware, Madam Chair,
15 that MNR has certain guidelines to deal with the spruce
16 budworm infestation and the salvaging or utilizing the
17 wood which is damaged, I am sometimes wondering if we
18 are again skating on pretty thin ice by doing things as
19 we are. I realize that spruce budworm is doing lots of
20 damage and probably will continue so for many years.

21 On the other hand, perhaps in areas, and
22 this is very broad kind of spectrum I'm having in front
23 of me, visited many areas which are affected by this,
24 in some cases the spruce budworm does serious damage to
25 white spruce, obviously does fairly serious damage to

1 balsam fir, but I have seen also recovery for the black
2 spruce, and I have been there frequently.

3 It is interesting that the spruce budworm
4 hit hard the balsam and could, as a matter of fact,
5 improve growth of white spruce, which is a part of this
6 association on these sites, and historically
7 speaking -- and I'm now partly depending on Dr. Gordon,
8 Al Gordon's write-ups.

9 Q. That paper is in the source book; is
10 it not?

11 A. Yes, in the source book. Let's
12 generally say that if under certain conditions white
13 spruce survives the epidemics, it provides a condition
14 to white spruce for further growth and, as a matter of
15 fact, it's association on certain sites, in certain
16 stands.

17 Now, by harvesting these stands, saying
18 discriminantly there is spruce budworm -- and please
19 note the rationale for inclusion, spruce budworm,
20 susceptible and damage. Well, fine, to what dimension.
21 How far does the damage progress, will the white spruce
22 survive. In other words, describe in better terms and
23 more scientifically perhaps the reason that these
24 stands have to be cut now.

25 I know that Ministry provides lots of

1 money to access these stands. Now, again, in a certain
2 period it looks like to me that the whole options or
3 the whole dynamics of this process is not thoroughly
4 researched. If white spruce will survive in these
5 stands, even damaged, will survive, it may well serve
6 as a very future component of our sole supply in the
7 future.

8 Madam Chair, one of the problems we are
9 going to encounter very quickly - and I partially
10 visited in the testimony before showing you slides -
11 that we are going to run sooner or later out of large
12 material; in other words, we are going to have lots of
13 trees but what kind of trees. I hope it was clear in
14 my testimony.

15 Now, by cutting these stands - because we
16 have a policy, again it's to me very superficial -
17 perhaps we should much better look in the situation
18 where we are going to say: Okay, it's justified here,
19 perhaps we just should wait there and have a policy
20 where the forest manager is equipped with better
21 knowledge of budworm generally and the dynamics of
22 budworm to decide on his own by walking this area,
23 observing it, this should be done, but he has a policy
24 and that's what bothers me, that the policy may be
25 interpreted in a way which is suitable or which is for

1 the forest manager in cases of white spruce forest
2 species.

3 I know there are large areas that should
4 be clearcut and are being clearcut right now, and
5 Industry should be congratulated to do the best they
6 can in order to harvest areas which is harvestable now
7 because in two or three years it will be unsuitable for
8 anything.

9 On the other hand, there are areas where
10 discretion is very important, the scientific know-how
11 of the forester who prescribes this and I would say
12 that this kind of cookbook policy frightens me because,
13 you know, once you do things you go right through.

14 Q. Mr. Marek, the first paragraph of the
15 letter identifies that this is a salvage licence.

16 A. That's right. The area has been
17 proclaimed by MNR and probably, in some cases, the
18 Industry to salvage.

19 Q. How do Crown dues paid on timber
20 extracted from salvage licences compare to other --

21 A. They reduce Crown dues on timber
22 harvested in these areas.

23 Q. You said they are reduced Crown dues?

24 A. Salvage dues. I don't what it is
25 exactly, but from say \$8.00, 9-, \$10.00 a metre you pay

1 only a dollar or something. It is heavily reduced as
2 an incentive for the Industry to get in and harvest
3 what is harvestable right now.

4 Q. And I want to clear then on what your
5 objection is to this timber being harvested on this
6 salvage licence.

7 A. I don't know every square metre of
8 the licence, of this whole condition, but let me -- I
9 drove it two or three times. I noticed that 60 year
10 old spruce, white spruce is being harvested and that's
11 why it is harvested, otherwise the operator wouldn't go
12 in. He would have come in probably for that defective
13 balsam.

14 He's going after sawlogs, obviously, and
15 white spruce is a species which can - and there is a
16 pictures included in the statement, Madam Chair - that
17 the value of this white spruce be taken, the value of
18 the total forest, that's what bothers me. In forestry
19 you cannot generalize this way. So may I say that
20 there should be much more tolerance.

21 Research, I think we should have a new
22 look at the policy of budworm in northern Ontario from
23 the more scientific point of view due to the new
24 findings and new conditions because these dynamic
25 conditions in the budworm is a really complex thing.

1 MS. SWENARCHUK: I have really only one
2 subject area left, Madam Chair.

3 MADAM CHAIR: Why don't we take our
4 morning break and return in 20 minutes.

5 MS. SWENARCHUK: Thank you.

6 MADAM CHAIR: Thank you.

7 ---Recess taken at 10:30 a.m.

8 ---On resuming at 10:50 a.m.

9 MADAM CHAIR: Please be be seated.

10 MS. SWENARCHUK: Madam Chair, Mr. Martel,
11 before going to the remaining issue, I just wanted to
12 bring to your attention that the changes in the
13 District Land Use Guidelines and the changes in
14 policies reflected in the Lake Nipigon integrated
15 resource management plan to which Mr. Marek has
16 testified are specified on pages 14, 15, 16 of the
17 witness statement and, as well, the relevant sections
18 of documents are available to you in the source book.

19 Q. Mr. Marek, I would like us to turn
20 our attention now to the question of the Nipigon River
21 landslide which you have discussed beginning at page 26
22 of your witness statement.

23 Madam Chair, Mr. Martel, this is the
24 final document in the engineering report with regard to
25 this slide. It's the final document in the Lake

1 Nipigon witness statement source book.

2 A. Yes.

3 Q. Yes. Do you have page 26 of the
4 witness statement, Mr. Marek, as well?

5 A. Page 26?

6 Q. Yes.

7 A. Yes, I got it, ma'am.

8 Q. All right.

9 A. April 23rd, 1990.

10 Q. The witness statement indicates that
11 this slide occurred on April 23rd of this year. Could
12 you indicate on the map for the Board, Mr. Marek,
13 approximately where that is?

14 A. Well, Madam Chair, if you can see
15 from there, it's very up north of the Town of Nipigon.
16 You cannot see, but right directly connected to Nipigon
17 River is Lake Helen.

18 So the area of concern here is in the
19 slide which occurred on the west side of Lake Helen,
20 approximately mile and a half from the shore of Lake
21 Helen and Nipigon is flowing through there, rushing
22 through there.

23 Q. Now, again, to assist the Board
24 speedily, if you would refer to the engineering report
25 in the source book at page 19 of the report, Section 6.

1 A. Are you talking about... (indicating)

2 Q. No, we are looking at the engineering
3 report in the source book.

4 A. Yes, okay. Very good.

5 Q. Page 19 of that engineering report

6 A. Yes, okay.

7 MS. SWENARCHUK: Madam Chair, Mr. Martel,
8 a more extensive, very extensive description of the
9 slide is contained in the engineering report. I won't
10 take time to review that now.

11 We simply see in the first paragraph of
12 the conclusion and recommendations that it was
13 described as a recent massive landslide that
14 retrogressed from the east bank of the Nipigon Lake
15 eastward to disrupt the TransCanada Gas Pipeline. It
16 probably started a small slide at the river bank.
17 Small bank slides are common along the Nipigon River.

18 What was unusual about the April 23rd
19 slide was that it did not stop near the river, but
20 continued back 1,000 feet, 33 metres as a retrogressive
21 failure and then probable contributing factors are
- 22 specified.

23 At the bottom of page 20, the following
24 page, the last paragraph indicates:

25 "Man-caused activities that may have

1 contributed to one or more of the factors
2 mentioned above include..."

3 Paragraph B, on the next page:

4 "The tree harvesting to the
5 northeast which would contribute to the
6 high water content in the soils and
7 recharge the ground water table down
8 slope.

9 And further down the page, Madam Chair,
10 Mr. Martel, the engineers make recommendations to
11 reduce the risk of both small local riverbank slips and
12 larger retrogressive type movement, and the first
13 recommendation is:

14 "Further tree harvesting uphill from the
15 river within the glacial...land forms
16 susceptible to land slides shown on
17 drawings No. 15 and 16 should not take
18 place unless a designed engineering study
19 is undertaken to develop strategies that
20 will ensure future tree cutting will not
21 contribute towards another large
22 failure."

23 Q. Now, Mr. Marek, you have written
24 about this slide on pages 26 to 28 of the witness
25 statement.

1 A. Mm-hmm.

2 Q. And I wonder if you could just
3 describe for the Board, first of all, what timber
4 harvesting had occurred in the area adjacent to the
5 slide prior to it, what harvest system had been used,
6 et cetera?

7 A. Madam Chair, I am going to start --

8 Q. You will have to move the easel.

9 A. This painting here.

10 Q. You will have to move the easel up,
11 Mr. Marek, so the other parties can see.

12 A. I think everybody can see from here.

13 MS. CRONK: Actually a couple of us
14 can't, Mr. Marek, so thank you, we would be very
15 grateful.

16 THE WITNESS: Okay. Madam, what's
17 happened, this river is going something like this.
18 Here is Lake Helen up here, the whole chunk of land has
19 been moved from here down there exposing pipeline and
20 details.

21 But let's talk about something which I
22 think is important here and, that is, that logging
23 occurred over here, and the statement by engineer
24 indicate there are possibility of effect of logging on
25 this event here.

1 Well, let's say first that Domtar, which
2 was logging there, was logging stands which were
3 heavily infested by budworm. These stands were
4 severely defoliated and it's quite a large area of
5 water deposited land, effluvial deposits.

6 Now, these stands were harvested by
7 full-tree harvesting method, technique, and exposed
8 large area by removing all trees from the site. I
9 think it's -- here are several things to consider.
10 It's appreciable that Domtar, Industry is trying to
11 salvage these budworm infested stands and utilize them,
12 there are certain benefits because the area is very
13 close to the mill; in other words, the transportation
14 is not far away, the cost is lower and so on. So
15 congratulations Domtar harvested timber which should be
16 harvested.

17 I know that timber very well, it's a
18 second growth stand which were established after
19 cutting in that area in 1936 -- between 1936 and 1940.
20 Most of it is balsam, as described yesterday with my
21 photograph, because many of these areas second growth
22 is balsam trees. They were heavily defoliated.

23 Now, obviously if you do this removal of
24 the material from -- open it up to the environmental
25 condition the increase of precipitation and impact of

1 water moisture will be felt throughout the area. As I
2 mentioned yesterday, the ecosystems are always
3 interconnected, what's happened here, what's happening
4 is surely going to affect to some degree here. The
5 degree is not well-known because we haven't got
6 scientific documentation as yet how the water affect
7 really and what distances, half a mile, quarter mile,
8 few feet, we don't know.

9 But under these geological formations
10 which we are facing, the river flowing through that
11 area, surely, surely there is some impact of hydrology
12 of the sites right here, square mile of clearcut,
13 affecting the neighbouring area. It just happens so
14 this is a slope and there is a flat terrain where the
15 cutting was done. There was a protective zone
16 established by the licensee, no doubt hoping that the
17 area will be somewhat protected from the effect of
18 water. And, again, we don't know to what degree this
19 affect this site itself, it is just suggested, and you
20 can read that statement by the engineer.

21 But this shows me again one important
22 fact which cannot -- should be stated here, that by not
23 having perfect knowledge of the total ecosystem,
24 clearcutting, after cutting, and effect, even long-term
25 effect later on in all these sites come back again in

1 forest that we have to be very, very careful as
2 foresters to avoid situation where the danger of this
3 water impact on this catastrophe here play a role.

4 I don't know and I cannot tell what
5 should be left and what shouldn't be left, but the fact
6 is that this, the defoliation of the balsam fir which
7 was harvested by the licensee, we have increased this
8 water level because we have prevented the retention of
9 some of the moisture in the crowns which do not have
10 any foliage, so that moisture precipitation go right
11 through the stem, hit the ground, hit the forest floor
12 and because that forest floor is very desiccated; in
13 other words, the budworm is going into that area for
14 last four years because it's part of my Limestone
15 plantation there, the percolation occur quickly and, in
16 case you have, say, condition characterized by high
17 precipitation, it surely going to have -- surely it's
18 going to affect the surrounding area. In other words,
19 the water percolate to certain level and then draining
20 down the slope to the area of concern.

21 I think the moisture problem which I have
22 dealt yesterday, Madam Chair, in the forest stand is
23 big enough to put better intention to the water
24 movement in the stands regardless if it's in the forest
25 floor itself or if it's in the mineral soils, because

1 indeed the suggestion is being made that the harvesting
2 of this area affected catastrophic events down slope.

3 So this is a point in forestry that
4 perhaps we should concentrate more on the effects of
5 water on the site, not only for benefits of the trees,
6 but also for the benefit of eliminating disastrous
7 conditions like this.

8 Q. Mr. Marek, did this slide cause
9 concern to the members of the Society?

10 A. Of course it caused concern for whole
11 country, it was on TV and it was everywhere, people
12 start worrying because what could be catastrophic
13 really is not slide itself is damage to the pipeline,
14 we could have explosion there just like Halifax 1913,
15 honestly, and the concern is here, and I think that
16 anybody who would visit area see that pipeline sticking
17 out of the ground it was frightening thing.

18 I went there and I see that several
19 hundred feet of pipe this size (indicating) exposed in
20 the air, earth is moving. Lots of these particles went
21 into Lake Helen, of course, from Lake Helen immediately
22 half or quarter mile down is intake, yeah, intake for
23 water supply in Nipigon, everybody open the tap and has
24 full of silt in the teacup.

25 Well -- and you probably have followed

1 it, sir, I don't have to elaborate on that. Indeed the
2 suggestion in the enginner's report is not saying it
3 was, it says suggestion, and I think that is enough.
4 We as foresters should be extremely concerned about
5 some of the effect of water movement, water table,
6 water rises, and I have elaborated on this issue
7 yesterday in my slide presentation, Madam.

8 Q. Now, the conclusion to the witness
9 statement prepared for the Beardmore Society occurs on
10 pages 28 to 30 of the witness statement.

11 A. 28, Madam.

12 Q. 28 to 30 of the witness statement.

13 A. Okay.

14 Q. And looking at the last lines of page
15 28, Mr. Marek, you have said:

16 "Finally on behalf of the Society I wish
17 to express the realization that while our
18 forests in the Lake Nipigon have served
19 us relatively well in the past by virtue
20 of wages, many benefits went elsewhere.
21 While this did not need to be so,
22 unfortunately it was, and the FMAs
23 appear to perpetuate this theme."

24 Now, would you explain for the Board in
25 what way, in your view, the FMAs perpetuate this theme?

1 A. Speaking generally, Madam Chair, it
2 was my observation of last many years living in the
3 boreal forest that the north country in itself didn't
4 get the benefits I think should have received. I think
5 many people in northern Ontario seeing nowadays trucks
6 passing through the villages, like Beardmore, serving
7 to some degree -- well, to Thunder Bay because the
8 mills are there, the institutions -- progress is there,
9 but for Beardmore itself I don't think it served very
10 well in the past and is presently serving.

11 I am not promoter of saying that
12 Beardmore should have a pulp mill, I am not promoting
13 the idea, Madam Chair, that Armstrong should have pulp
14 mill, we have enough pulp mills, this is my
15 observation. But when it comes down to feed and
16 maintain community like Beardmore, I think the
17 isolation and the fact that many valuable resources
18 were taken out of this area, not being compensated. I
19 think they are building school now, but generally it
20 goes to the west or towards the north.

21 And MNR got their benefits in form of
22 Crown dues, government got their benefits to taxes,
23 federal and provincial, companies in general has 40
24 years, I have witnessed up and down, in the production
25 but; in general, they did very well because they can

1 afford investment in other field of enterprises, and
2 where does this money come from, obviously from
3 resources up north.

4 - People in Beardmore and especially the
5 Lake Nipigon-Beardmore Society are more and more aware
6 of the concern that while these resources are
7 disappearing and the pulp is always being transported
8 now distances up to over hundred miles north from
9 Beardmore and then farther down to Thunder Bay, which
10 is 120 miles, they worry about the cost, the cost of
11 wood.

12 We are faced here with a cost to get wood
13 from Auden down to the Thunder Bay mill in the vicinity
14 of \$40 a cord, and they are not stupid, they say:
15 Well, couldn't we have got that wood right from around
16 Beardmore if we have practised proper management,
17 "management".

18 Management of Beardmore area started way
19 back in 1913 when the first operation started; in other
20 words, there should be enough good wood now or supply
21 of wood so we don't have to go 200, 300 miles north to
22 get that supply and return again. They are not stupid
23 to realize that that kind of cost is directly affecting
24 their standard, their well-being because they say:
25 Well, if they have to flow that wood and it costs them

1 \$40, that cost will be somehow transferred for my
2 field, my endeavours and my standard of living and that
3 is a new phenomenon that now the people is asking
4 question never asked before, how does a problem of --
5 how the forest industry reflect my standard of living
6 in Beardmore, they are interconnected. Again, let's
7 talk about ecosystem, always, always go around.

8 So I think FMA - and now I going to come
9 to your question, Madam - shows me clearly, shows me
10 clearly that the community has to be involved in very
11 important decisions pertaining to this trade of our
12 resources, how could this be done.

13 Lately the Beardmore Society discussed
14 frequently the proposal by certain political parties
15 and by certain people who saying -- asking first off
16 question, how you going to get community involved in
17 these decision-making processes, how you going to get
18 the handle on that wood there.

19 And I bet they are not talking about
20 wages as much as they are talking about future and
21 future problem, and when they see the resources are
22 being removed and transport after transport is going
23 through the main street, people start questioning. And
24 the effort -- this kind of effort mirror itself, get us
25 involved, and the suggestion is being made, let's get

1 involvement right down to the management level; in
2 other words, we like to have a word or two how we going
3 to manage for the rest of that wood or future wood
4 which may or may not be available, that's beside the
5 point.

6 I think the FMA establish large area
7 of -- or give large area under the licence to the users
8 and some of them now also coming and saying I want a
9 part of that using game, I want to have a part in it.
10 I see Domtar is logging here for 40 years, you see the
11 result, and I think I going to now like to take a share
12 or sharing that piece of pie which is available.

13 And, unfortunately, that piece of pie is
14 getting smaller and smaller and they see and they ask:
15 What you going to do with that little piece of pie
16 which is left here, what are you going to do with these
17 stands that we suppose harvest by 2020, and they won't
18 be there because they are eaten up by budworm.

19 So, Madam Chair, I think the FMAs with
20 all these benefits, with all its positive ideas and
21 theories behind are not consistent with the demands of
22 public. They feel they should have more to say and
23 perhaps they may even ask to restructure it, some of
24 the FMAs and, say, I ought to think different way than
25 perhaps the company does. Madam Chair, this is an

1 important problem to be resolved in the future for the
2 government, for the Industry and for the people.

3 The reason I am presenting here the case
4 of Beardmore is very simple one, Beardmore wants to
5 have a piece of the pie and if they don't get it, they
6 rebel, they going to protest, they going to raise the
7 issue to the press everything.

8 Perhaps it's time, I would say on behalf
9 of the Beardmore Society, to tell you this: We are
10 interested in forestry, we know to some degree what
11 forestry is all about because many of us working in the
12 forestry sector for 30, 40 years and they demand
13 attention, and they will demand resolution of some of
14 the problem.

15 MS. SWENARCHUK: Thank you, Mr. Marek.
16 And that concludes my questions.

17 MR. MARTEL: Do you really -- you don't
18 believe that that just typifies what's going on in
19 northern Ontario with respect to the Beardmore area?

20 THE WITNESS: Right.

21 MR. MARTEL: That that in fact is the--

22 THE WITNESS: Everybody.

23 MR. MARTEL: --concern right across
24 northern Ontario in one municipality after another?

25 THE WITNESS: Right.

1 MR. MARTEL: I just wanted to make sure
2 that you were.

3 THE WITNESS: Oh, I work with other
4 communities, Mr. Martel, I work with Armstrong, I work
5 with Long Lac, my clients surprisingly come all over
6 the country, so I am fully aware of some of these
7 problems in northern Ontario, not only Beardmore.

8 MS. SWENARCHUK: Thank you, Madam Chair,
9 Mr. Martel.

10 MADAM CHAIR: Thank you, Ms. Swenarchuk,
11 Mr. Marek.

12 MS. SWENARCHUK: We will need a few
13 moments to reorganize.

14 MADAM CHAIR: Fine.

15 ---Short recess

16 MADAM CHAIR: Mr. Hanna?

17 MR. HANNA: Good morning, Madam Chair,
18 Mr. Martel.

19 CROSS-EXAMINATION BY MR. HANNA:

20 Q. Mr. Marek, good morning to you also.
21 I am going to stand also but I won't be able to walk
22 quite as much as you do, so you won't mind if I stand
23 still and I don't mind if you walk around. I haven't
24 got the energy you have.

25 A. What!

1 Q. All right. Mr. Marek, I am going to
2 spend much of the time speaking with you talking about
3 the interrogatories that we have submitted to you, and
4 the supplementary interrogatories, and I first of all
5 wanted to confirm that you prepared the interrogatory
6 responses.

7 A. Yes, yes.

8 Q. Okay. And I take it you also adopt
9 them as your evidence?

10 A. Yes.

11 MR. HANNA: Madam Chair, I would like
12 perhaps just at the beginning to introduce those as an
13 exhibit because I will be referring to them throughout
14 the rest of my --

15 MADAM CHAIR: All right. And you have
16 given us a copy, Mr. Hanna.

17 MR. HANNA: Yes, Madam Chair.

18 MADAM CHAIR: This will be Exhibit 1531.

19 MS. CRONK: Sorry, Madam Chair, was that
20 1531?

21 MADAM CHAIR: Yes, Ms. Cronk.

22 MS. CRONK: Thank you very much.

23 MADAM CHAIR: Unless I've missed a
24 number.

25 MS. CRONK: No, no, I just couldn't hear

1 you. Thank you very much.

2 MADAM CHAIR: Mr. Hanna, could you
3 identify the interrogatories in this package.

4 MR. HANNA: Yes, Madam Chair. It's
5 interrogatories 1 to 28, plus you will see there's a
6 final page which is a response to Interrogatory 25
7 which came under separate cover.

8 ---EXHIBIT NO. 1531 Interrogatory responses to OFAH
9 Interrogatory Question Nos. 1-28,
10 plus No. 25 under separate cover
 re FFT Panel No. 3.

11 MR. HANNA: Q. Now, Mr. Marek --

12 MR. MARTEL: Before you go on, we had
13 this put on our desk. Who does it belong to?

14 MADAM CHAIR: This is OFAH
15 Interrogatories 1 through 40.

16 MR. MARTEL: Forests for Tomorrow,
17 witness statement No. 4.

18 MR. HUFF: Mr. Lindgren sent them over
19 yesterday to distribute them to you.

20 MADAM CHAIR: They are not an exhibit
21 yet?

22 MR. HUFF: They are not an exhibit yet,
23 they are merely for your reference. I meant to give
24 them to Mr. Pascoe and got carried away.

25 MADAM CHAIR: Go ahead, Mr. Hanna.

1 MR. HANNA: Q. Mr. Marek, I wasn't
2 unfortunately here to listen to all your effort, but I
3 was here for some and I was entertained by what I
4 heard.

5 What I am interested in in our discussion
6 is to understand what the implications of your concerns
7 are in terms of the practical changes that need to be
8 made in the timber management planning process, so I am
9 going to be continually focusing on that, and much of
10 my questions are not going to be as much to challenge
11 what you said but to understand how we can
12 operationally deal with your concerns. So that is
13 where I am coming from.

14 I would like to deal with general
15 principles first, and the first general principle I
16 would like to deal with is, are you of the view that
17 forecasting the future is an essential element in
18 resource management and forestry management in
19 particular?

20 A. Very much so.

21 Q. And do you agree that by making
22 forecasts and the forecasting methodology as explicit
23 as possible it engenders greater awareness of the types
24 of concerns that you've raised?

25 A. Right.

1 Q. And would you also agree that by
2 providing explicit forecast methodologies and explicit
3 forecasts that that provides a valuable reference point
4 to evaluate the effectiveness of your actions in the
5 future?

6 A. Correct.

7 Q. Are you familiar with the adaptive
8 management approach proposed by Dean Baskerville?

9 A. Yes.

10 Q. Do you endorse this approach as a
11 reasonable way to proceed with dealing with many of the
12 concerns that you've raised at the operational level?

13 A. Yes. I have to state, Madam Chair,
14 that I have a certain concern about term -- about
15 certain terminology, which I am fully aware will be
16 explained further or explored with Mr. Baskerville, and
17 if I may add to this, for instance, the term
18 restrictive bothers me.

19 Q. I'm sorry, the term...?

20 A. The term restrictive.

21 Q. Restrictive?

22 A. Management restrictive, quite
23 frequently use, it's restrictive. Now, what I like to
24 know, what restrictive really means, and I have pointed
25 out in my testimony where I say, okay, what does

1 restrictive really mean.

2 Q. I'm sorry, Mr. Marek, I don't follow
3 that. Are you referring to restrictive in terms of the
4 way that Dean Baskerville uses it, because I am not
5 familiar with him using that term, that is why I am
6 having some difficulties.

7 A. Okay. What -- may I make a statement
8 and respond to.

9 Q. Perhaps, Mr. Marek, it's my lack of
10 good hearing. Did you say constraint?

11 A. That will be fine because I can't
12 hear either.

13 Q. We will both yell at each other, Mr.
14 Marek. Did you say constraint?

15 A. Constraint or restrictive in that
16 term.

17 Q. Oh I see. So restrictive and
18 constraint you use them synonymously?

19 A. Yeah.

20 Q. I see. Fine, continue. So your
21 concern is the way he uses the term constraint?

22 A. Constraint, yeah.

23 Q. I see. And just so that we're clear,
24 your concern, as I understand it, is that if you manage
25 by constraint you will get the bare minimum; if you

1 manage by objective you've got a direction where you
2 are going and you are more likely to achieve where you
3 want to go?

4 A. That's one explanation, Madam Chair.
5 The other explanation could be that by constraint you
6 mean getting practices which constrain to do other
7 practices; in other words, comparatively speaking we
8 are talking about to do something right or not to do
9 something right. Is that clear?

10 Q. Okay. And your concern with the
11 constraint concept is -- can you just summarize that
12 again for me. I just don't quite understand the
13 concern with the constraint concept.

14 A. Okay. May I use this example. We
15 raised this quote "normal practices". What does this
16 mean, normal practice. If you say that normal practice
17 means that you clearcut the forest, you remove all
18 merchantable timber, plant and you clearcut, and on the
19 other hand you leave partial of this forest standing
20 for modified cutting purposes or whatever, isn't that a
21 constraint? Is it or isn't it, I would like to know.

22 Would you classify it as constraint in a
23 restrictive sense, or is that meaning some other, is
24 there some other value that you do not input, or you
25 don't impact the normal operations.

1 Q. Okay. Well, let me come at it from a
2 - different -- I'll try and shift your paradigm a bit
3 here and see if this is more satisfactory to you.
4 Taking your example of the clearcut versus modified cut
5 example--

6 A. Right.

7 Q. --if it was set out in the timber
8 management plan that there was an objective in terms of
9 production of wood and there was an objective in terms
10 of the production of wildlife values.

11 A. Mm-hmm.

12 Q. Objective in terms of water quality.

13 A. Mm-hmm.

14 Q. Objective in terms of fisheries, site
15 values, whatever, the benefits that we are trying to
16 achieve through the timber management activities, that
17 then the constraint, if you will, becomes trying to
18 achieve those objectives?

19 A. Right. Oh obviously.

20 Q. And so that you know where you are
21 going but you don't have -- you don't say to the
22 forester, you cannot do this?

23 A. Right.

24 Q. But you have to do this?

25 A. Do that, okay.

- 1 Q. Now, is that still a problem for you?
- 2 A. No, it's not problem because it's
- 3 constraint.
- 4 Q. Okay. Okay, fine. So what you are
- 5 saying is that when you have multiple objectives of
- 6 that nature you can't satisfy them all at one time?
- 7 A. Right.
- 8 Q. And so you have to compromise?
- 9 A. You have to compromise.
- 10 Q. And when you compromise you are
- 11 constraining something?
- 12 A. Right.
- 13 Q. All right. Do you have any problem
- 14 in setting out explicit objectives, quantitative
- 15 objectives using the adaptive management approach in
- 16 timber management plans?
- 17 A. You talking about data?
- 18 Q. I am talking about a whole process
- 19 that involves data, forecasting, implementation,
- 20 monitoring, the whole ballgame.
- 21 A. As in IRM, yes.
- 22 Q. Yes?
- 23 A. Yes, I do.
- 24 Q. You...?
- 25 A. I do, I have objection or I have --

1 Q. Okay. You have an objection as
2 implemented presently.

3 A. That's right.

4 Q. And when you say implemented
5 presently, where is adaptive management being
6 implemented presently that you have a problem with?

7 A. I have -- No. 1, is basic
8 information, base information, I don't think we have
9 it, to my measure, of good forest management and please
10 quote "good, proper", whatever. Yes, I have a problem
11 with it because I don't think we have a proper
12 inventory, we haven't got up-to-date information or
13 changes of the forest from year to year from period
14 to -- we haven't got, we just wait for site
15 productivity, we vaguely touch on other uses. Just one
16 of few but there are many of them.

17 Q. Okay.

18 A. And I don't think that we can really
19 cope with the situation if we don't have these basic
20 information, realistic inventory, realistic
21 prognostication of yield. Matter of fact, Dr.
22 Baskerville he dealt with it, he's got there Magna
23 Carta four points, how you manage properly.

24 Q. That's the point. Dr. Baskerville
25 identified those weakness also. I don't think there's

1 any difference of opinion between the two of you on
2 that matter.

3 A. That's right.

4 Q. The question is really, what do we do
5 given the limitations we have at the present time.

6 We make all the efforts we can, I think
7 that's what you are suggesting. We have better
8 inventory, better knowledge and all those sort of
9 things where we are making decision today.

10 And, as I understand the adaptive
11 management approach, one of the strengths of it is it
12 provides a basis to make the best use of information
13 you have at the present time and to build on that
14 information over time to get where you want to be.

15 A. In relative terms. May I add?

16 Q. Certainly.

17 A. Okay. In relative terms. Meaning
18 difference to you, meaning difference to us, meaning
19 difference to public over there and I very well know
20 the public has a very real serious problem with it.

21 Q. With it? I want to make sure I know
22 what you've said. Public has a concern with it; what
23 is it?

24 A. With the present implementation of
25 the forest management plan.

1 Q. We are not quite talking about the
2 same thing here, Mr. Marek. I am not here asking you
3 about your opinion now about the timber management
4 planning process, I want to deal with the adaptive
5 management concept first of all and I want to see if
6 you support the adaptive management concept, whether
7 you see it as a means to effectively come to grips with
8 a number of concerns that you have raised and if it was
9 implemented in the timber management planning process
10 in the province, which, I will submit, is not being
11 done so at the present time, would that assist you in
12 view of many of the concerns you have raised?

13 A. If this process will be upgraded,
14 considering new information, new research, new views,
15 philosophy of things, there are many aspects involved,
16 new input by public. We have to start someplace and
17 with that I would say let's start with it.

18 Q. But isn't that a key element in the
19 adaptive management approach, that you continually
20 revise and revisit your forecasting techniques as you
21 go along, rather than have it cast in stone you
22 continually have that monitoring feedback that helps
23 you update and revise your forecasting?

24 A. Mr. Hanna, one of the problems with
25 forestry, as Dr. Baskerville stated on many occasions,

1 is it's an evolutionary process of things, okay.

2 If we have a certain basic sound
3 information, accurate information, I would say, yes,
4 start with it, but that ensures that we have, good -
5 sound basic information and my contention here is we
6 don't have it.

7 Q. Okay.

8 A. So we build something at the
9 beginning. Okay, start with it, but be aware that that
10 concept may be built on information which may not even
11 apply for it.

12 Q. Let me just turn that around a
13 different way and say to you this: Let's accept your
14 factor, your statement that we have inadequate
15 information and knowledge.

16 A. Okay.

17 Q. That's our starting premise. And
18 then say what alternatives we have other than to stop
19 the world and wait until we have the knowledge?

20 A. Mr. Hanna, I am the last one who will
21 stop the world, but I assure you one thing, that in
22 order to start something, the wrong way or the right
23 way, there is a big difference, and I can give you only
24 one example.

25 I very much invested -- or investigated

1 the accuracies of inventories and I think that present
2 concept is better on the kind of inventory which I feel
3 are faulty. So you started building the Rome or
4 building that pillar which already has one basic fault
5 and that question is asked frequently: What do we
6 really have.

7 Madam Chairman, I have elaborated
8 yesterday - it's too bad you were not here, Mr. Hanna -
9 I have challenged that you cannot make a good
10 prognostication, good modelling if you haven't got one
11 very important block in the building of anything and
12 that is, what do I have.

13 I challenge MNR and I challenge Industry,
14 and Industry is aware of it, sir, that we have to look
15 at -- have to take a very good look of what we have in
16 order to start from there on. Then you build.

17 Q. Okay. I'm not disagreeing with you
18 and I'm not in any way trying to suggest otherwise,
19 okay.

20 I will agree with you wholeheartedly
21 right now that we have to have good information, but
22 how long is it going to take to get an FRI up to your
23 level for the Province of Ontario in the area of the
24 undertaking?

25 A. Don't tell me my level, it's public

1 level.

2 Q. Well, you're the expert that's given
3 opinions--

4 A. Yes, but --

5 Q. --and I'd be interested in knowing
6 your view in terms of how long you think that will
7 take.

8 The reason I ask that question, Mr.
9 Marek, is simply, I'm not disputing what you are
10 saying, but we have got to do something in the interim
11 and what do we do in the interim?

12 But answer the first question and that
13 is, how long do you feel it will take?

14 A. If the concentration of this primary
15 objective -- the concentration on that issue will be
16 the primary importance or designated as primary
17 importance to build on, and I think it has been stated
18 by Baskerville again - I know Gordon - he states you
19 have to know what you've got, you've have got to know
20 fairly accurately what you have. Then if you don't
21 have it, put the effort to do it.

22 But answering your question, how long is
23 it going to take, it will not take as usually assumed,
24 it will not take as long as usually assumed. We are
25 talking about -- in past presentation I have read, it

1 is going to take years, am I right?

2 Q. I don't know the presentation you are
3 referring to.

4 A. Okay. Let's take that --

5 Q. I am asking for your opinion, how
6 long you think it is going to take.

7 A. My opinion would be that I challenge
8 this daily because I think we can do it very quickly,
9 very quickly, with the help of the companies, with the
10 Industry involved, with the help of even public,
11 consultant people, with the people who have the total
12 knowledge of the problem.

13 Again, that problem has got to be
14 recognized first, Mr. Hanna, that we have to recognize
15 there is a serious problem. Let's start from there. I
16 don't think it will take us long. It will take a
17 certain period of time, say a year. That's all. It
18 won't take years. It will not take years.

19 Q. So you said one year?

20 A. Yes, that's my estimate.

21 Q. Okay. And the type of information
22 that you would want collected -- remember, we don't
23 have aerial photographs that cover the province at the
24 present time --

25 A. Oh, yes, we have.

1 Q. Let me finish first, it just makes it
2 easier.

3 We haven't got aerial photographs
4 covering the province at the present time for all of
5 1989 unless you want to use aerial satellite
6 photography or something, but we haven't got --

7 MADAM-CHAIR: Excuse me, Mr. Hanna. I
8 might just interrupt, we have heard from Mr. Marek that
9 he is not a big fan of aerial photography.

10 MR. HANNA: That's my next question, how
11 we were going to do this. Thank you for bringing that
12 to my attention.

13 MADAM CHAIR: Mr. Marek has given
14 evidence to the effect that he believes foresters
15 should be in the field as a primary consideration.

16 MR. HANNA: Thank you, Madam Chair, for
17 that clarification. All right.

18 Q. So are you suggesting we don't use
19 aerial photographs?

20 A. No, not at all. Madam Chair, I was
21 objecting to these high polluting kites in the sky,
22 these satellites which are going to solve all our
23 problems.

24 I'm talking here about very useful --
25 photography has-been very useful to me and all of us.

1 I like to correct these kind of feelings that perhaps
2 I'm not against aerial photography because I never go
3 out in the bush without one in my back pocket.

4 I am talking about these high technology
5 things which apparently are going to resolve all of our
6 problems in the next decade or so. That's what I'm
7 talking about.

8 Q. Back to the point. So you want to
9 get this better database, you would agree that aerial
10 photographs are a key component, not the only
11 component, but a key component in making that --
12 improving that inventory?

13 A. (nodding affirmatively)

14 Q. In order to improve that inventory
15 you will need aerial photographs that are fairly
16 current in terms of the forest structure you are
17 dealing with?

18 A. Mm-hmm.

19 Q. So how far back can we go, '86?

20 A. As recent as possible. I wouldn't
21 put a date on it.

22 Q. What I'm trying to get at, Mr. Marek,
23 is this difficulty of the type of information that
24 needs to be collected and practically how we can do it.

25 So you're saying, first of all, we need

1 aerial photographs as recent as possible?

2 A. Yes.

3 Q. Much of the area, you know, is in the
4 70's that we have aerial photographs for?

5 A. '45.

6 Q. I'm talking about the most recent,
7 not the oldest. But the point is, is that going to be
8 adequate for your purposes?

9 A. They are very useful, yes.

10 Q. Okay. So what additional information
11 do we need to collect that we haven't currently
12 collected on the FRI--

13 A. Inventory.

14 Q. --inventory to date?

15 A. Is a forester and people in the bush
16 to find out what they really have.

17 Q. So greater cruising?

18 A. Well, it's cruising -- it's not
19 really cruising. You can do lots of observations. We
20 talk of so-called "greens-on" forestry where with
21 experience you can very well judge what the dynamics of
22 the condition of our forest friends are.

23 Q. Spot samples?

24 A. Yes, we did that in the past. I did
25 it many times.

1 Q. Okay. So is the type of data that we
2 need to collect different? Is the FRI data that we
3 collect at the present time adequate, it's just not
4 accurate enough?

5 A. Right.

6 Q. It's not accurate enough?

7 A. Correct.

8 Q. So what you're saying is, take the
9 current FRI that we have and field check it to a higher
10 level, and you are saying we can probably do it in a
11 year or two years, something like that?

12 A. Reconnaissance would be probably the
13 type to check some these things because the conditions
14 are changing rapidly, as you probably know.

15 MR. MARTEL: Can I ask a question?

16 MR. HANNA: Sure.

17 MR. MARTEL: What worries me is if all we
18 are short of is a year's gathering of data why we
19 wouldn't have done it 20 years ago.

20 It seems to me, if that's the case, we
21 are almost playing around -- that we want to live
22 dangerously.

23 THE WITNESS: Yes.

24 MR. MARTEL: We don't want to get to
25 knows what's there in order to deal properly with what

1 we have to do in order to have sustainability, and it
2 seems to me that a year's gathering of data should
3 never have occurred that we would not do that, if it
4 would only take a year to put it together.

5 It just seems to me that that's
6 simplistic, that one year is all that's lacking in
7 gathering data so that we can start to manage the
8 forests in a different way. If I'm wrong...

9 THE WITNESS: Oh, no. May I, Madam
10 Chair?

11 MADAM CHAIR: Go ahead, Mr. Marek.

12 MR. MARTEL: Yes, I'm asking you. Go
13 ahead.

14 THE WITNESS: As a matter of fact, we
15 have done it because we had a problem in certain area
16 of our district where we were not sure really about the
17 past inventory, the present know-how and there was an
18 expansion proposed by the company which I thought was
19 not justified because the condition of the forest was
20 not such which would encourage the future yields or
21 future supply of wood continuously.

22 We have put together with the Industry
23 and our staff priority to it. In one year, we have
24 cruised or recruised or resurveyed or rethink these
25 conditions and, indeed, the allowable cut went way

1 down, and I testify it went down and the expansion
2 didn't take place.

3 Now, this is confidential information
4 which I don't want to pinpoint, but the fact is that
5 you can, if you have to do it, if you have to. When
6 the time arises and you have a very important decision
7 to make, it's time to do it, we can do it and we did it

8 MR. MARTEL: Mr. Marek, aren't there
9 other considerations, though?

10 You knew your area well. We have talked
11 frequently in the past two and a half years the whole
12 matter of foresters not staying in an area very long,
13 not getting the knowledge, the background knowledge
14 they should have.

15 It's conceivable it could have been done
16 because you knew the area well, but if you were talking
17 about other areas where you have, let's call them, new
18 boys on the block who don't have all the basic
19 knowledge that you had, that in fact that might take
20 longer.

21 THE WITNESS: Mr. Martel, it's my
22 experience that Industry usually have capable men who
23 stay longer on the site, and the concern has been
24 expressed to me quite frequently: Now, dammit, we have
25 to take a good look what we have.

1 I think that it's not only MNR who should
2 be involved in this process. The FMA holders, the
3 Industry must put priority to it and just get together
4 with the MNR and proceed with urgency as quickly as
5 possible.

6 MR. HANNA: Q. All right. Now, if we
7 did what you are suggesting and we took that year or
8 two to improve the FRI database - I'm back to the
9 adaptive management approach - do you see the adaptive
10 management approach providing an important basis for
11 foresters to deal with the types of issues that you
12 have raised?

13 A. I agree, yes.

14 Q. Now, let me look at the other side.
15 Say we don't invest that time, we go with our current
16 inventory and we still go with an adaptive management
17 approach, but we have a lower percision in our
18 forecast, is that better than not doing anything and
19 not forecasting at all?

20 A. Mr. Hanna, you are in danger of
21 credibility. You would be surprised that the
22 credibility of information, the credibility of data
23 prognostication is questioned by the public frequently.
24 See my statement before.

25 The public is extremely sensitive, it's

1 perhaps a generality in some aspects, but on the other
2 hand, to very (inaudible) and subtle investigation of
3 credibility of data and people who represent them, and
4 I would tell you that and repeat, that here the
5 credibility is at stake.

6 Q. Okay. So what you're saying is you
7 don't disagree with the adaptive approach?

8 A. No.

9 Q. In terms of priorities, in terms of
10 where you see the primary issue that has to be
11 addressed, the data is a primary issue, in your view?

12 A. In other words, Mr. Hanna, we have to
13 clean our act. We have to recognize where we stand
14 with our information data, our basis to plan for future
15 and make a fairly drastic decision. Do something about
16 it.

17 Q. Now, Mr. Marek, perhaps to assist me
18 in shortening this up as quickly -- as much as I can,
19 can you direct me and -- I am dealing here with the
20 Panel 3 witness statement, not the Beardmore--

21 A. That's right.

22 Q. Watchdog Society. Specifically what
23 is it that you want this Board to decide based upon
24 your evidence?

25 Is it summarized in a nice spot, or can

1 you just briefly tell me specifically what you would
2 like these people to decide, presuming that they are
3 convinced and compelled that the argument that you
4 bring forward, they accept your opinion and look at
5 that and say this is a person they want to listen to,
6 what specifically do you want to see this Board decide
7 based upon the concerns you've raised?

8 A. Mr. Hanna, the Board itself is not
9 part -- at least a Board of experts, foresters,
10 biologists. I do not doubt their ability in scientific
11 know-how as mine. I'm not a scientist myself, but I'm
12 very much interested in exactly what you say, let's get
13 something which we all can accept as accurately as
14 possible.

15 During my presentation, I stated and in
16 my statement I have said frequently some of the points
17 which I think should be considered by the Board in
18 presenting them while they are up to the government who
19 made the political decision based on political
20 expediency and hope with consideration to some of the
21 non-political issues because forestry and timber forest
22 management is the peoples. People in Ontario are
23 asking for better information.

24 So I would say that, first of all, I
25 think the accurate inventory, the estate we have or we

1 want to manage should be investigated and priority
2 given, and you started that conversation a few minutes
3 ago. Let's know what we have.

4 Then the secondary aspect is the
5 understanding which may clash with understanding of
6 forestry in differing levels; in other words, my
7 understanding of forests, how to manage it, may be a
8 different one from the corporate president who is there
9 for making profit, annual, satisfying the shareholders'
10 dividends, but also the other aspect is that you have a
11 vast majority of people who wish to perpetuate the
12 forest or have a forest, something similar to what we
13 had before, with plenty of timber, plenty of moose,
14 good hunting ground, good fishing ground, something
15 which we call multi-forestry or multi-purpose forestry.

16 I think that if listened or if I hear
17 responses, there seems to be concern about this on the
18 part of the Board also, that they are questioning.
19 They scrutinized my statement here and they say: Why
20 don't we do this. So, in general, my second objective
21 would be to institute processes, documentation,
22 modelling, planning, so we can really achieve
23 conditions which will be similar to ones before which
24 we had one before.

25 In other words, you are aware of our

1 natural forest before disturbance is started by
2 cutting, now we should examine what we have done in
3 last 40, 50, 100 years in someplaces and embark on
4 forestry which will mean more to the average citizen
5 and satisfy his needs. That would be my recommendation
6 broadly or my hope.

7 Q. Okay. Let me see if we can just
8 narrow this down because the Board, when it writes a
9 decision, it may come up with terms and conditions and
10 they may be very specific in terms of what's involved.

11 In terms of the FRI data improvement, is
12 there a measurable objective way that you could state
13 the level of precision that would be acceptable, based
14 upon your expert opinion, in the FRI data?

15 A. To be accepted. To be accepted by
16 who?

17 Q. Remember, your role here is to
18 recommend to these two people what you feel as an
19 expert, someone who is out there in the field, is
20 what's needed to be done and they are going to make
21 their judgment as to what they feel is appropriate.

22 What would you feel is acceptable based
23 upon your expert opinion. How would objectively state,
24 that's an acceptable level of FRI data?

25 A. You measure that by comparison, by

1 comparative documentation, Mr. Hanna, and I think that
2 the objectives, again, are a very important part of
3 this process, the objectives.

4 If we are going to decide that we are
5 going to have certain areas allocated to parks, if we
6 are going to decide that we are going to allocate
7 certain areas to moose or timber management, for that
8 matter, very intensive timber management, that I think
9 is going to be political statement, that I think is
10 going to be political decision based on information we
11 supply, modified, changed.

12 The political process will regulate the
13 implementation, and if you say what kind of accuracy,
14 as best as a professional in the field of forest
15 management, I would prescribe "back spruce" will be
16 managed by such a prescription in order to achieve such
17 a stocking establishment, development, dynamics,
18 rotation, the risks involved and so on.

19 I have a model here, which I'm going to
20 show you later which I prepared for the Ministry in
21 1984. It's part of my presentation which deals with
22 these things. Now, the input in individual compartment,
23 the input in individual segments of multi-use has to be
24 done by a professional who hopes for the best hundred
25 per cent accuracy.

1 Will we achieve it? No, but here come
2 the things, what methods we are going to use, how much
3 attention we are going to pay to that segment and
4 adaptation of philosophy that, indeed, the forest
5 before was a marvelous example of nature for thousands
6 of years, how it produced products which we utilize and
7 be guided by it.

8 Q. Mr. Marek --

9 A. Obviously when you ask me 98 per
10 cent, 80 per cent in modelling, I'm fully aware of
11 these differences when you put in different inputs and
12 this I tried to perhaps convince here the Board that we
13 are not doing our best because our accuracy may be 75
14 per cent, 50 per cent.

15 I was dealing with this issue where I
16 said: What are we going to plant, 50, 60, 85 and
17 somebody says: Well, look it, and here comes the
18 background information, here comes the process of
19 accuracy. If you don't have good input in that
20 modelling, you better be careful what percentage you
21 put in.

22 That's what I can tell you. If you are
23 after pinpointing the accuracy of 80 per cent or 90 per
24 cent, I would say very clearly that that issue is as
25 best we can.

1 Q. But you were a bureaucrat, Mr. Marek,
2 you know how the Ministry operates, you know how the
3 whole process works and it works very much with a
4 budget allocation process that basically gets passed
5 down the line.

6 A. Oh, yes.

7 Q.- You as a forester often ended up with
8 the tail end of the dog and basically had to do
9 whatever the tail told you you had to do?

10 A. They changed that.

11 Q. Well, I'm giving you an opportunity
12 now to even go better, put yourself in the position of
13 being the Minister of Natural Resources for the time
14 being, and given that you were looking at priorities
15 and allocations, how much do you think would be
16 necessary to be allocated in terms of budget, staff,
17 whichever terms you want to put it in, to deal with the
18 improvement in the FRI data that you are proposing?

19 A. I appreciate your hand to make this
20 suggestion, Mr. Hanna, and I will try to tell you first
21 and to the Board, Madam. We didn't discuss as yet this
22 budgeting and the kind distribution of power in the
23 hierarchy. Yes, I was a bureaucrat, but I don't think
24 anybody in South Pine would really believe that.

25 Q. I didn't mean it in a pejorative

1 sense, Mr. Marek, I can see you are not a classic
2 bureaucrat.

3 A. That's the problem with bureaucrats.
4 Mr. Hanna, let's concentrate on one issue which is
5 going to really put the problem into perspective of a
6 fieldman, as I am.

7 I always complain about one thing, that
8 when I propose a budget -- you see, they gave me the
9 privilege to make a budget and when I got the budget
10 back I didn't recognize it; in other words, my
11 wishes -- I hope it's not going to happen in this case.
12 My wishbook for Chrisman was always disregarded.

13 The example I can tell you, I have asked
14 \$200,000 for tending and the regional director, who is
15 the person way up there, you don't need it and I got
16 nothing. So there it comes. Because they direct that
17 money someplace else at, regional level.

18 But let me point out to you, Mr. Hanna,
19 we will not resolve this problem of budget response as
20 long as the implementation of the forest management
21 programs will be entirely dependent on the budget
22 scrutiny and budget allocation and budget
23 implementation on the top levels, and here I'm talking
24 about regional level which slashes the budget depending
25 on the regional priorities and so on.

1 The forester who plants, implements
2 timber management program in the timber management plan
3 is absolutely useless when he has to see this problem.
4 He hasn't got even power to reallocate his timber
5 - management program; in other words, the dynamics of the
6 forest and risk appear before the forester and he's
7 faced with this problem: What am I going to do today,
8 I have to do it today because tomorrow it will be late.
9 He is not allowed to reallocate that budget for his
10 things.

11 In other words, as a bureaucratic you are
12 restricted to the targets and implementation program
13 which is scrutinized not by him, by higher up.

14 So let's start that the budget has got to
15 be loosened up, that the forester in the field, the
16 timber manager who administered timber activities and
17 is doing the program according to the timber management
18 plan will have the power to do certain things which he
19 is not allowed to do now.

20 MR. HANNA: Q. Mr. Marek, I'm tempted to
21 move on and the only reason I'm not is because I'm
22 interested. You have been out there, you have seen it
23 all and I think your opinion is going to be much more
24 valuable the more specific I can get it.

25 I'm not challenging anything you have

1 just said. I think the Board has probably been
2 interested in it, but I am going to my original
3 question and that is, I am trying to understand in the
4 most explicit and specific means possible of a way to
5 put into action, a way that we can get assurance,
6 presuming that in the final decision it is decided that
7 the type of concern that you have raised is a valid
8 concern, that there will be some assurance in the
9 long-run that what your concerns are get actually
10 addressed, and I'm trying to deal with that.

11 I'm looking at one way of trying to
12 address that in terms of the FRI data saying, one way I
13 could do it would be to say we have to sample 25 per
14 cent of the stands in a forest management unit,
15 whatever. I'm just trying to look at some means, some
16 stringent means that can be monitored and enforced over
17 time. Do you follow what I mean?

18 I'm not challenging what you've said, I
19 am trying to put what you said in a concise and
20 succinct way that can be referred to over time to
21 monitor progress.

22 A. Succinct? I understand --

23 MADAM CHAIR: Mr. Hanna, would you like
24 to give Mr. Marek the lunch hour to reflect on this?

25 MR. HANNA: I'm quite prepared,

1 Madam Chair. If it is going to help, I will do
2 whatever.

3 MADAM CHAIR: Do you understand the
4 question, Mr. Marek?

5 THE WITNESS: I beg your pardon?

6 MADAM CHAIR: Do you understand Mr.
7 Hanna's question?

8 THE WITNESS: Well, I see the trend
9 developing that we are going to argue pf the way
10 things -- perhaps we should get together one of these
11 days and have a discussion between us.

12 Perhaps what I'll try before we go to
13 lunch, and I don't think that soup is going to refresh
14 my brain too much -- it seems to me that you ask me,
15 Mr. Hanna, to analytically devise programming.

16 MR. HANNA: Q. (nodding negatively)

17 A. No, you don't.

18 Q. No, I'm not asking for that. I'm
19 simply looking for a way, Mr. Marek, to put in -- I
20 will say in a legal and enforceable way that can be
21 binding on the Ministry of Natural Resources over time
22 the type of change that you want to see happen.

23 A. Accuracy of management planning. We
24 started with inventory, which is just a part of it.
25 Mr. Hanna, I believe strongly that the answer, as I

1 understand it, is this: If you have good timber
2 management plans - and I don't know if you have seen
3 good timber management plans, I'm aware about good
4 timber management planning in Europe very well, but I
5 have to as yet to see good timber management plan
6 here - based on latest, good information, background
7 information in cooperation of all users.

8 I'm talking timber -- not timber
9 management plan, in this case I'm talking forest
10 management plan for the forest estate. If we have it
11 done as accurately as possible, if we have -- starting
12 again with input from the bottom, have a responsible
13 person in charge of it, if it's going to be forester or
14 somebody else it's not clear, let's talk about person
15 who will be responsible and not only responsible, but
16 also communicate, who can explain all these planning
17 processes to the people in general, share this
18 information, follow that timber management plan
19 sequentially, make the necessary changes, if necessary,
20 I think that would be a good start.

21 Now, obviously it doesn't satisfy -- is
22 the timber management plan something you feel strongly
23 about as I do because I do very strongly? I think the
24 timber management plan is a Magna Carta like the Bible
25 I described yet yesterday. It's the Bible of things.

1 Let's put accuracy as much as possible, let's put
2 understanding in the thing, discuss it with public and
3 put this pooling of knowledge and I think that will
4 improve then the situation considerably.

5 Give the forester or who's responsible
6 for that plan the power by legislation, by forest law
7 that he can, as best as possible, and that's not happen
8 frequently because there are nuances with these things,
9 give him power, protect him, punish him if he is amiss,
10 then I think we are going to have better forest
11 management in this country.

12 MADAM CHAIR: That was pretty clear, Mr.
13 Hanna.

14 MR. HANNA: We will continue after lunch,
15 Madam Chair. Thank you.

16 Thank you, Mr. Marek.

17 ---Luncheon recess taken at 12:05 p.m.

18 ---On resuming at 1:30 p.m.

19 MADAM CHAIR: Good afternoon. Please be
20 seated.

21 Mr. Hanna?

22 MR. HANNA: Good afternoon, Madam Chair,
23 Mr. Martel, Mr. Marek.

24 Q. Mr. Marek, did you have an
25 opportunity over lunch to reflect any further on our

1 discussion before lunch and, if so, did you have
2 anything further you wanted to add?

3 I'm not asking for you to add anything,
4 but if you did, I would like to hear it.

5 A. No. Speaking frankly, it didn't
6 occur to me to go through it, so, I'm sorry, I have
7 other things to think about.

8 Q. That's fine. Can we turn to --

9 MS. SWENARCHUK: 1531.

10 MR. HANNA: Q. 1531. And I would like
11 to turn first to Question 14 which you will find the
12 question starting on page 8 and the answers on page 9.

13 A. Question 14?

14 Q. Yes. And this deals with page 7 of
15 your witness statement and it's under the section
16 Definitions, and it's dealing with the definition of
17 site degradation; correct?

18 A. If you give me just a second to find
19 that.

20 Q. Certainly. Take your time, Mr.

21 Marek.

22 A. Here it is.

23 MS. SWENARCHUK: Page 7.

24 THE WITNESS: Page 7, yes:

25 "Any change in physical, chemical or

1 biological properties which reduces
2 productivity." Site degradation.

3 MR. HANNA: Q. Okay. I would like to go
4 through these questions individually with you. I
5 believe there were also a series of supplementary
6 interrogatories that were submitted, and I believe Ms.
7 Swenarchuk spoke to the Board about that matter, and I
8 would like now to deal with those detailed
9 supplementary questions with you in oral evidence, if I
10 might.

11 Now, the first question is:

12 "How is it proposed that site degradation
13 would be measured?"

14 And your answer is:

15 "By a thorough analysis of the physical,
16 chemical and biological fluxes and
17 balances of the various ecosystem
18 components, the energy balance is the
19 most critical."

20 My difficulty in this are several and the
21 first is, what constitutes a thorough analysis in your
22 view?

23 A. Okay. A thorough analysis would be
24 probably to start with measurement of the growth, the
25 measurements of the production accumulated during -

1 because we talk about site degradation - so I would
2 measure the height growth, I look at the colours of the
3 needles, I would probably measure the nitrogen contents
4 in the leaves which is very simple process, the
5 appearance of needles, of course, is quite often
6 considered as a degradation on account of colour,
7 yellowing, chlorotic appearance, and I dealt with it in
8 my slides, Madam Chair, so that would be a simple thing
9 to just measure.

10 The second thing probably would be that I
11 would do thorough analysis of the soils itself.

12 Q. Of the, sorry?

13 A. Chemical analysis of the soil.

14 Q. Soil, yes.

15 A. And one of the kind of things which
16 is not being frequently done to analyse the forest
17 floor by its components, and forest floor components
18 are usually healthy feather mosses or healthy floristic
19 indicators which are very well described in the FEC,
20 and I think that basically would give me fairly good
21 insight into the productivity of the site or, in case
22 of soil degradation which is defined here as change in
23 physical, chemical, biological properties, then would
24 indicate a problem or no problem.

25 But in the site degradation we talk

1 automatically with changes in properties which reduces
2 productivity.

3 Q. Some parties to this hearing will
4 probably argue that that's being done right now, and I
5 would like to know from you what more needs to be done
6 than what's done at the present time?

7 A. Mr. Hanna, the question I would ask
8 you back - or, Madam Chair, allow me - who measures
9 these things? If it's done, who does measures these,
10 because I am not aware of too many cases where this
11 interest or this kind of investigation is being done
12 because, No. 1, there is no time for it; No. 2, I
13 suppose there is more priority given to other things.

14 And, in many cases, where I was
15 confronted with this issue to prove the site is in
16 trouble, or the trees are in trouble, most of the
17 answer I got from the "people concerned" was: Well, I
18 didn't notice anything. So I don't think it's done
19 frequently. I would be very happy if it's done.

20 Q. So to the best of your knowledge
21 right now it's not standard practice, as far as you
22 know?

23 A. As far as know, Mr. Hanna, I am not
24 aware of.

25 Q. And who in the timber management

1 planning process do you feel should be responsible for
2 undertaking that type of analysis?

3 A. It should be man who is in charge of
4 the timber management planning and implementation in
5 the area and, in this case, as a forester I take it
6 that forester should be the person.

7 In other words, the unit forester, the
8 manager, they should be quibbling with this term who
9 does it as a title of unit forester, management
10 forester, supervisor, there is so much, you know,
11 differentiation and each has assigned responsibility
12 and I have trouble really to reconcile this "statement
13 in a spec" to the responsibility of who. So I am going
14 to say forester, period.

15 Q. Thank you. Should these types of
16 measurements be done on all harvested areas in your
17 view?

18 A. In the majority of area which is
19 suspect or could be suspected of changes after
20 harvesting, the FEC indicate or should indicate some of
21 these changes. Now, this as you probably know - and,
22 Madam Chair, I was talking about yesterday - that the
23 FEC lacks this information, lacks the additional
24 changes which may occur.

25 But let's be realistic, our areas or our

1 site conditions vary, varies quite a bit. We haven't
2 got this extensive areas of sandy flats or sandy
3 outwashes or site types which are broken up, and so we
4 haven't got it on -- but I think in cases where the
5 forest manager suspect changes, it should be done, yes.

6 Q. How would one measure that the level
7 of analysis has been adequate?

8 A. Well, best we know how and best
9 technology provides us nowadays with fairly good
10 instruments to analyse the sites. For instance, I have
11 done lots of work with researcher or in cooperating
12 with them to supply, for instance, samples.

13 For instance, I had a plantation where
14 all of a sudden discover that something wrong with the
15 colour of needles. It may not necessarily be yellowing
16 or browning, it may be something which you as a good
17 forester, as a manager, you always all of sudden say:
18 Ah-hah, there is something wrong.

19 And may I point out to you that the old,
20 old foresters always says, I believe in the smell of
21 the trees. In other words, you pick up the tree and
22 for just a second, drive with your Christmas tree, the
23 smell of the needles change considerably. In case of,
24 for instance, infested trees or infested foliage by
25 pathogen give a certain smells because it produce

1 sugars and produce glucose and decompose and you can
2 find the smell.

3 So there are many ways to do it and one
4 of the first one is, is there something visually wrong,
5 then you go farther up and start analysing the problem.
6 Madam Chairman, I am not saying that you practise
7 forestry just by smell.

8 Q. Now, you have indicated that there is
9 three factors here that you would use to measure site
10 degradation: measurement of growth and coloration of
11 foliage--

12 A. That's right.

13 Q. --soil chemistry, indicator species
14 similar to what's in the FECs. Are there circumstances
15 or would you not agree that there are circumstances
16 that you could have a change in growth that might not
17 be reflected in soil chemistry, that may not be
18 reflected in indicator species, and might be due to
19 factors such as the physical characteristics of the
20 soil and particularly bulk density?

21 A. Yes, yes, very much so. We agree on
22 bulk density definition, Mr. --

23 Q. I'm sorry?

24 A. We agree on bulk definition density,
25 we know what we talking about, right?

1 Q. I hope so, yes.

2 A. By agreeing in that, let me point out
3 that indeed, in bulk density is a good indicator because
4 in bulk density you are talking about particle
5 containing in certain room or space, that is the
6 density.

7 Now, if it's more compacted, if it's
8 loosend up by precipitation, water, emulsification,
9 yes, bulk density is a very important factor.

10 Q. So can we add then a fourth factor
11 then, the three that you've described and bulk density?

12 A. If we what?

13 Q. I didn't yell loud enough, sorry, Mr.
14 Marek.

15 A. You don't have to yell.

16 Q. Can I add to your three indicators--

17 A. Yeah.

18 Q. --a fourth indicator or a fourth
19 analysis that you would want to see, being bulk
20 density, measurements of bulk density?

21 A. Yes, yes, very much so, because we
22 know from many experiment with bulk density, and please
23 be aware of one factor how bulk density work. As you
24 know, there are different stratas of soils, horizons,
25 -- and we have got to be very careful there what part of

1 the strata we are talking about when we talk about bulk
2 density.

3 Q. Mr. Marek, are you aware of any
4 procedures, guidelines, manuals, whatever, that are
5 generally available to foresters in the province at the
6 present time, whether they be Industry foresters or
7 Ministry foresters, that would provide them with
8 sufficient direction in terms of, No. 1, how to go
9 about these analyses that we have described in a
10 systematic way and would provide a reasonable basis for
11 interpretation?

12 A. Very good question, Mr. Hanna. I
13 think this is our problem, we don't. I think we are
14 fairly depending or frequently depending on a green
15 thumb and I, for one, have used it for many years until
16 got eventually ahold of researchers and said: Look,
17 fellows, let's look at these problem what's happen, and
18 while after, you know, perhaps in a kind of first stage
19 to recognize these things, we are not recognizing the
20 need for more and qualitative research in this field.

21 Q. And I take it then that you feel this
22 is a priority area that that type of effort should be
23 put into?

24 A. Oh, The research definitely, we
25 should get involved.

1 Q. And this is sort of another common
2 theme that the Board has heard me ask other witnesses,
3 Mr. Marek, and I will ask you and that's the concern we
4 have in these situations where we say we need research
5 and there's always that large gap between research and
6 implementation. And what do we do in the interval, in
7 the intervening time.

8 And I guess the question -- the reason I
9 ask you that question is, should we be doing research
10 and at the same time taking knowledgeable people such
11 as yourself and Ministry foresters and Industry
12 foresters and putting that together in the best way we
13 can, at least as a stop gap measure?

14 A. Correct.

15 Q. You agree with that?

16 A. Yes. I said correct.

17 Q. I just want -- I just got to make the
18 record perfectly clear on this and I want to make sure
19 that--

20 A. Oh God, yeah.

21 Q. You understand that this is --

22 A. Yes, I agree with you fully.

23 Q. Thank you. Now, Question 7 -- or sub
24 question (xii) of Question 14 asked:

25 "What reasons are there to suspect that

1 the results of investigations of soil
2 compaction due to timber management
3 activities in various provinces such as
4 B.C., Alberta, and Newfoundland are not
5 applicable to Ontario?"

6 And you described some of the reasons
7 that one could expect that.

8 I guess the question I'm interested in
9 knowing, given that we know that there are
10 differences - right, I don't think there will be much
11 contesting of that - is that information transferrable
12 at least as a stop gap until we have better research in
13 Ontario?

14 A. Well, it's a warning, it's a warning
15 to foresters to consider these things, what's happening
16 in Newfoundland and what's happening in forestry and
17 research and so on and so forth, in Siberia, it's
18 applicable to all because we are all living the global
19 ecosystem which impact parts of the ecosystem.

20 So while there is no direct perhaps
21 connection, the indirect connection in case of risks
22 the possibility of compaction is always with us, Mr.
23 Hanna.

24 I may add to this, and I didn't go into
25 soil compaction and some of these problems in Ontario

1 during my slides because compaction can occur or may
2 occur on so many different conditions. Are we talking
3 about compaction of mineral soil, are we talking of
4 compaction of organic stratas, are we talking about
5 compaction of the forest floor level, at the level of
6 root system. And I may point out here that term
7 compaction in this have all kind of different meanings.

8 I have pointed in my - just for the
9 benefit of Madam Chair and Mr. Martel - I prescribe,
10 for instance, site preparation which did compact it,
11 but it was compaction for very purpose, to decrease the
12 density in order to increase the water content in that
13 depressed area and we have found - and my friends in
14 Abitibi will probably read about some of these
15 experiments done in rain - by equipment which compacted
16 feather mosses in order to prepare for a seedbed.

17 So we have got to be very, very careful
18 when we talk about compaction we must quantify very
19 clearly where, what is the purpose of it, and how it
20 going to serve us for better, in better management.

21 Q. So I'm hearing you saying it's not a
22 simple matter.

23 A. No.

24 Q. Okay.

25 A. No.

1 Q. Now, have you read the terms and
2 conditions of the Ontario Federation of Anglers &
3 Hunters?

4 A. I read so many things that I'm not
5 quite sure if I can say positively yes. I think I got
6 it home and I think I look at it, but I didn't study in
7 detail because this is just fairly new. When was
8 published?

9 Q. February, 1990.

10 A. Yeah, here we are. I have it home
11 and I cannot say if I read it or not in more detail,
12 but feel free to ask me questions from it.

13 Q. Okay. I'm going to -- we have a
14 section, it's section 5.7, it deals with site
15 degradation.

16 A. Correct.

17 Q. And we've made four specific
18 proposals to deal with site degradation. I want to get
19 your opinion as to those four proposals.

20 A. Pleasure to serve you, sir.

21 Q. It's a pleasure to have you serve me.
22 I would like to deal first with term and condition 152
23 and I will read it to you.

24 A. Right.

25 Q. "Maximum soil compaction (i.e.,

1 bulk density limits), for a minimum
2 percentage of each harvested and
3 regenerated area shall be established
4 for the major soil types within the area
5 of the undertaking to minimize the risk
6 of long-term site degradation."

7 A. Agreed.

8 Q. 153:

9 "A standardized sampling procedure shall
10 be designed to assess with a 90 per cent
11 confidence level the degree of soil
12 compaction after harvesting and site
13 preparation in order to evaluate
14 compliance with specified maximum soil
15 compaction limits. Sampling shall be
16 carried out on all areas harvested
17 including all tertiary roads and any
18 secondary roads designated for
19 acclamation."

20 A. That confidence level bothers me. We
21 are -- I think the suggestion is well put and I think
22 that the confidence level come a little bit too early
23 in our kind of investigation, because the confidence
24 level always is, is that really confidence level 90 or
25 why not with confidence level 70.

1 But I think, yes, it should be monitored,
2 we should have some confidence level but we must
3 realize we are at the beginning of these qualitative
4 approaches to forest management; in other words...

5 Q. Mr. Marek, let me just clarify the 90
6 per cent, so that we are both talking the same terms.

7 A. Okay, do so.

8 Q. There's a 90 per cent accuracy level.

9 A. Accuracy is something else.

10 Q. Which is different.

11 A. Okay.

12 Q. There's a 90 per cent confidence
13 limit of the sample.

14 A. Sample, okay.

15 Q. Okay, that doesn't necessarily say
16 the sample is 90 per cent accurate, it says that the
17 sample is 90 per cent confident, that's all you're
18 determining. Do you have a problem with that?

19 A. No, no problem.

20 Q. Your problem is that we don't know
21 everything and therefore to think we are going to get
22 90 per cent accuracy is hopeful?

23 A. That's where I feel we need to be
24 very careful with forecasting of confidence level, and
25 forecasting of weather too is a good example.

1 Q. The next term and condition is:

2 "Any site not meeting the maximum soil
3 compaction limits shall be deemed to be
4 inadequately regenerated and appropriate
5 remedial action shall be taken within two
6 years to satisfy the minimum
7 requirements. This shall include
8 replanting of sites necessarily
9 disturbd to restore soil properties."

10 A. Good intention but I visualize that
11 problem right before. You have a compacted forest, how
12 you going to treat it, decompact it; in other words,
13 you mean, other disturbance on top of the disturbance.

14 And what I really cannot realistically
15 visualize that knowing so little about compaction
16 itself - and you talk about the accuracy of
17 forecasting - that the answer to do it in two years
18 indeed good suggestion, and perhaps research should
19 work on it, is it possible?

20 I am just saying to you that we have to
21 look at it more in detail, the feasibility of it and the
22 ramification of this. In other words, when you
23 decompact certain things you may not necessarily
24 improve the quality of the site; in some cases you may,
25 in some cases you may not.

1 In my experience -- and the other thing,
2 Madam Chair, what I must -- let's go back in the bush
3 and see the total perspective Ontario forest, the
4 boreal forest region from Kenora to Clay Belt, and I
5 just see that compaction which has been identified in
6 British Columbia and I have seen these sites, in New
7 Brunswick and I have seen these sites, I have seen the
8 Texas monsters tramping down, I have seen many other
9 which may be somewhat over emphasized in the boreal
10 forest and I tell you reason why.

11 Podzolic soils in northern Ontario were
12 compacted by nature, by retreating glaciers many
13 thousands years ago, that's what we call podzolic
14 soils, and that compaction is clearly visible when you
15 start feeling the strata of this compaction in the
16 layers close to the mosses or to the humus layer, it's
17 static, it's compacted because it has been worked over
18 by glaciers. The leached out layer is a great sample
19 of it.

20 And I would recommend that my studies,
21 which prove that compaction is not very important
22 damage to our site as it could be in some other areas
23 or other Canadian regions, is something we should pay
24 attention on certain site. We definitely should deal
25 with it, but perhaps this is kind of secondary,

1 secondary damage or degradation to our site.

2 Q. The primary degradation being..?

3 A. The primary degradation being effect
4 of logging equipment on the sensitive parts of these
5 sites which may be shallow tills over bedrock,
6 effluvial deposit, washed out through the glaciers
7 rivers, and third one of course is the lowlands, the
8 organic strata of the lowlands above the clays or
9 whatever it may be, which are heavily disrupted by
10 logging equipment.

11 So we talk about not compaction, also
12 compaction may occur here and there, I think the
13 greatest damage is being done by logging equipment just
14 working out these sites to the unrecognizable sites
15 which I think produce all kind of difficulties in
16 successive planting, regeneration period, because we
17 are rendering the site too unstable, too water damaged
18 and that is a problem.

19 Q. Okay. There is several questions I
20 have. The first is, if you have a compacted site--

21 . A. Right.

22 Q. --what action do you feel is
23 appropriate? Are you saying you should live with it or
24 is there any remedial mitigative actions that you would
25 advocate?

1 A. Depends on the size of the area
2 disturbed and I'm talking disturbed in case of
3 compaction, it's disturbance which cause these things.
4 If you have a large area of these things, then
5 obviously we should be immediately to eliminate the
6 situation by - and this going to surprise you, sir - by
7 planting lots of trees there.

8 If you talk about artificial regeneration
9 and that site has been disturbed by large clearcutting,
10 my answer would be put as many trees as possible, get
11 very early crown closure, because the more trees you
12 have the earlier crown closure you achieve, and then
13 hope that these trees - and in case black spruce, as
14 you know I deal mainly with black spruce - trees
15 establish their own environment on the site and bring
16 back the floristic composition of the original stand.
17 That means the feather mosses move in as soon as
18 possible, they establish their own strata, you know,
19 and there the original process of site occur quickly.

20 If you will start doing, or if you will
21 apply measures of treating in physical sense the
22 stratas, you may in some cases provide more problem
23 than you had before. This is my finding.

24 I have seen where, for instance, these
25 sites were scalped or they were site prepared by

1 equipment as we know now, it may be the trenchers, it
2 may be the Bracke, that actually we have created more
3 problem because you get puddling and you get all kind
4 of problems.

5 You see, you don't change clays to loams
6 or to other physical strata overnight, that does not
7 happen, but you may change the top strata on these
8 soils, which we call the humus layer, and the build-up
9 of this humus layer can only be achieved one way and,
10 that is, establish vegetation, establish new
11 environment for temperature, moisture relationship,
12 reintroduce the biological processes as quickly as
13 possible and plant lots of trees.

14 Q. Have you experience in compacted
15 sites in applying that mitigative strategy?

16 A. Beg your pardon?

17 Q. Have you experience with compacted
18 sites applying that mitigative strategy you've just
19 described?

20 A. Yes, very small scale. I didn't do
21 it on operational scale on, you know, thousands of
22 hectares as I did planting, but in some instances I did
23 it. I have just said: Okay, here is something, it's a
24 problem of compaction, usually happen by tractors,
25 heavy equipment, tractors, you know, very compact,

1 sometimes removing the organic material on the top and
2 you have compaction.

3 Now, I didn't measure, I must admit I
4 didn't chemically analyse, I knew it was very
5 productive site, but I didn't measure the compaction
6 units, but I have found that indeed the introduction of
7 early crown closure was the only way to do it in my
8 case.

9 Q. Now in that case, how would you deal
10 with that in terms of forecasting wood supply?

11 See, you can understand the concern is
12 that what you have is basically reduced the
13 productivity of the site and by increasing the crown
14 closure you have increased the competition, greater
15 competition amongst the trees and all other things I'm
16 sure you are only too aware of.

17 How do you deal with that in terms of
18 wood supply?

19 A. Very carefully, because by doing this
20 you definitely and not necessary increase the
21 production of these sites immediately, these are all
22 alternate effects, slow process and you can expect from
23 the beginning that your production will be curtailed.

24 In other words, you can plant lots of
25 trees there, but you are going to have very slowing

1 growing trees unless this ecosystem gets rebuilt again
2 and then perhaps the trees will grow normally.

3 But at the beginning, Mr. Hanna, I
4 expect, and I have documented, I have slides on it,
5 that in these areas you have very slow growth at the
6 beginning which eventually may pick up later on. I
7 have followed it now for 25 years some of those plots
8 and my feeling is that, yes, it will level to certain
9 productivity, but the initial damage is there and it's
10 going to take a while to put it back up into
11 production.

12 Q. So based upon your experience, you
13 are suggesting to me that the effects may persist for
14 25 years or longer?

15 A. No, this is in my case where I'm
16 guessing that 20, 25 years what you are going to get.
17 Don't forget, some of these things which are disturbed,
18 as we talked about, that you get a growth sometimes up
19 to a metre in 10, 20, years. The trees are just
20 sitting there until they build up their own
21 environment; in other words, plant succession at the
22 bottom, again caused by shading, (inaudible) balances
23 and so you can then suspect, but my prescription here
24 would be -- well, this is a problem with the free to
25 grow concept.

1 I think the free to grow concept is
2 something which puzzles me because you declare certain
3 things, one metre high or whatever it may be, free of
4 competition and it's okay, it's free to grow which
5 means what, free to grow? Does it guarantee that in
6 five years I have to go back and do new free to grow or
7 ten years free to grow? I have seen some of these
8 cases where all of a sudden free to grow is not free to
9 grow after is being free to grow.

10 Q. It's like cut clear and clearcut, but
11 we won't go into that one right now.

12 I'm not sure I fully understood what you
13 said in terms of how long the effects persist and the
14 reason that's important, I just want to make sure you
15 understand the importance of that question, is that if
16 I am looking at the costs in terms of forest
17 productivity of site degradation, particularly soil
18 compaction, if that extends -- if it's a small effect
19 but extends for a long period of time, then that can in
20 total be a great effect?

21 A. If you create these conditions over
22 thousands of hectares or millions of hectares, of
23 course you have a big problem because you don't get
24 what is supposed to be here. So you have a degradation
25 of not only the site, you degrade yield and its

1 production.

2 Q. What I'm trying to get your best
3 opinion on, Mr. Marek, is some range in terms of how
4 long you would expect those effects to persist, and if
5 you want to say on organic soils the effects will be
6 short lived and in the mineral soils, the silty sands
7 they will be long effects, whatever, fine, but can you
8 give us your best opinion as to how long you expect
9 those effects to last?

10 A. I wish I knew it. I wish I had
11 studied compaction more in detail, but I have so many
12 other things on my mind that it compacts my brain.

13 May I point out to you Mr. Hanna, that
14 this is true.

15 MR. HUFF: Can the record read there is
16 laughter in the audience.

17 MADAM CHAIR: Yes. We will keep Mr.
18 Marek's brain compaction in mind throughout the
19 hearing.

20 THE WITNESS: Okay. To answer that
21 seriously. I think -- I cannot testify to do it, this
22 certain productivity, and the factor is again the sites
23 changes, the degree of damage, the region, you know.

24 I have read articles and I have seen in
25 British Columbia some of the causes from compaction and

1 I was very frightened when I realized, gosh, what am I
2 going to say when I go back to Beardmore because you
3 cannot duplicate these sites, they are completely
4 different. They have different characteristics, they
5 have a different rejuvenation process. It's just
6 different.

7 But, again, the problem of compaction
8 exists. We should eliminate it, we should try our
9 best, but to tell you and say I would expose my
10 knowledge to all kind of crazy things like saying I can
11 predict with certainty, with a certain degree of
12 confidence, no, I cannot do that. I just don't know.

13 Q. The last term and condition I want to
14 get your opinion on in this topic is 155 and it reads:

15 "Any site not meeting the maximum soil
16 compaction limits shall be excluded from
17 the MAD calculation..." and we will
18 perhaps just say yield compaction,
19 "...until, among other things, the soil
20 compaction limits are met."

21 That's a means to -- I think, just so you
22 understand, the purpose being there has to be some
23 disincentive to the operators in terms of soil -- site
24 degradation.

25 A. We have to recognize, No. 1, that

1 compaction exists. How are we going to measure it,
2 where we can say very clearly the occurrence happened,
3 degradation to a certain degree occur, and then we can
4 say: Okay, buddies, we are going to take the measure
5 and if you don't -- but Mr. Hanna, I feel that we are
6 talking lots about compaction and I appreciate it and I
7 congratulate you to bring it up because I didn't, but
8 my concern in the areas of undertaking in normal
9 operation up north is more other disturbance other than
10 compaction.

11 I really worry about some of these very
12 visible scars we are causing by equipment to forest
13 sites which is not compaction.

14 Q. You're talking rutting now?

15 A. Rutting and disturbance which
16 prevents oxygen to the roots, you know, these things.

17 Q. I want to be very clear about the
18 types of disturbance you are referring to. There is
19 soil compaction, rutting. Is there another type of
20 disturbance that you are referring to?

21 A. Erosion, they sometimes act together.
22 The erosion aspect. Just the fact that we are damaging
23 the whole profile of trees, of future trees which
24 grows -- possibly or maximize or optimize. Yes, that
25 disturbs me very much.

1 Too bad you were not here yesterday, the
2 day before yesterday when I was presenting these cases
3 and pointing out the damage perhaps we are doing. I
4 can deal with this most completely because you can see
5 results of it immediately. You go see these rut over
6 sites, these damaged sites. You plant trees there one
7 day and the tree is dead in the 15 days or next spring,
8 so you can follow it very clearly because there are
9 visible effects of this disturbance.

10 Where compaction, and I have seen
11 compaction, I know what that means in B.C. and in New
12 Brunswick in some cases, it cannot be identified in the
13 short period of time. If you plant trees there, you
14 can see there is something wrong with it but they still
15 survive and they may survive. In some cases they may
16 of course not survive, but you cannot put finger on
17 say: Here is the damage is done and you don't do it
18 tomorrow because I have proof of the damage right there
19 immediately after disturbance.

20 Q. Are you familiar with the concept of
21 cumulative environmental impacts?

22 A. Cumulative environmental impacts.
23 No, I can visualize what you mean, let's put it this
24 way.

25 Q. One of the key elements in a

1 cumulative environmental impact is that it persists for
2 a period of time?

3 A. Right.

4 Q. And it accumulates over an area with
5 time. And the reason I raise that is that I am
6 suggesting to you that soil compaction is a classic
7 example of cumulative impacts of that nature that
8 individually are not perceived to be significant, but
9 when aggregated and accumulated--

10 A. And over a large area.

11 Q. --over time and space they can be
12 very important?

13 A. Yes, I think we have to investigate
14 and we have to really come down to the documentation
15 where we are going to say how often it occurs, where
16 does it other occur, under what condition it occurs,
17 what is the scope of the damage.

18 And, Mr. Hanna, I think that the concern
19 is here, and I'm concerned just as you are about some
20 of these effects, but from my own experience I would
21 say that there are much more urgent things which happen
22 on many cut-overs and I suspect, knowing boreal forests
23 right across, that the soil compaction and degradation
24 which goes with it is so little known, believe me or
25 not, that people just don't realize in many instances

1 because there was no attention paid to it.

2 We disturb it with all kind of equipment
3 over many sites in the boreal forest. Some of them are
4 shown to us right away, as I mentioned to you, by shear
5 planting the trees or visually looking at it, and when
6 we talk about site compaction, that is a more complex
7 problem in the area of undertaking and in black spruce
8 context.

9 Q. So it's fair to say then that there
10 are certain effects that you have seen that are readily
11 observable?

12 A. Very much so.

13 Q. But one of the difficulties with soil
14 compaction is really being able to assess it in a broad
15 way because it's one of those effects that occurs over
16 a broad area and may not be as visible as rutting and
17 those types of things?

18 A. That's correct. That's correct.

19 Q. And are you aware that those types of
20 observations and conclusions have been reached when
21 other researchers have looked at this project?

22 A. Just that, you know, the obvious
23 concern in literature from New Brunswick, Alberta and
24 British Columbia, which I am fairly familiar with, is
25 the sign to me that somebody cares. For 50 years, 100

1 years, who cared? Now all of a sudden there are -- I
2 have some of them with me and I can show it to you,
3 Madam Chair.

4 It's that foresters -- pardon me, the
5 other branches of soil science, other scientists are
6 concerned and foresters somehow are forced to recognize
7 this damage is being done. We should have, we
8 foresters should have taken care of this problem, never
9 mind the other fellows, never mind the botanists or
10 never mind the other branches of science, they are
11 coming to us: Look, buddies, you better take a look at
12 what you are doing there and it's embarrassing to me.

13 Q. I would like to ask you your opinion
14 on a matter that came up when I discussed this matter
15 with the Industry's representatives and it was also
16 discussed with Mr. Greenwood.

17 It was specifically referenced by the
18 Industry representative, Mr. Nicks, I believe, to the
19 timber management planning manual and page 198 which is
20 Table C1, the free to grow standards.

21 A. Mm-hmm.

22 Q. It was suggested to me at that time
23 that if there was soil compaction impacts that they
24 would be detected and if --

25 A. By what?

1 Q. And they would be detected because
2 the standards, the free to grow standards would be show
3 up in that form. Would you agree that would be
4 sufficient to detect the impacts of soil compact?

5 A. It depends on the accessories, it
6 depends on where, how it grows and where it grows and
7 so on. I appreciate your statement of this issue. I
8 didn't deal with it. In free to grow, for instance,
9 the standards of one meter in certain...

10 Q. Correct.

11 A. Okay. Now, are we sure and are
12 people who said so that --

13 Q. Sorry?

14 A. Who set up the standard.

15 Q. Yes.

16 A. Set up the standard that one metre is
17 the degree of growth or the standard which is
18 applicable to its site.

19 You see, in Plonski yield tables, Plonski
20 didn't deal with stands beyond age of 20 and here comes
21 the problem that -- and after age of 20 we have a
22 fairly good guidelines as to what natural stands grow
23 like. We are completely lacking any information on any
24 yield tables not only beyond 20 -- like Plonski in the
25 natural stand, and I worked with him on it, he was

1 misunderstood by many people, maybe foresters, but we
2 haven't got an idea what's happened up to age 20. We
3 don't.

4 When you deal with natural regeneration
5 is one ball game. You have the other artificial
6 regeneration, that's another balance game. You deal
7 with natural stands established by clearcutting or by
8 the management scheme or management practises past 50
9 years; in other words, you cut and do nothing, you have
10 a third ballgame. So you have three distinctive areas
11 of forest dynamics which we haven't touched on yet.

12 I understand that many companies are now
13 really concerned about these dynamics up to 20 years
14 because that's their future, it's our new stands, but
15 so far nothing positive came up and it will probably
16 vary.

17 When we came up finally with some kind of
18 guidelines to assess the growth on these cut-over sites
19 or disturbed sites, like you mentioned, disturbed
20 sites, you are dealing with soil compaction, I'm
21 dealing with rutting, what this may look like. So we
22 are guessing up to now.

23 But my guess, and I stated it on several
24 occasions, Madam Chair, in my discussion with you
25 yesterday and the day before yesterday, that in the

1 Clay Belt, for instance, we say generally: Well, the
2 tree grows very slowly and some of the little -- very
3 preliminary research, basic research was done that we
4 are getting into different growths as, for instance,
5 some other areas or other conditions of the soils and
6 here is strictly a guess.

7 The question I would like to point out,
8 unless we know why this happens -- why do we have
9 growth. It takes 10, 20 years to get the tree up to
10 one metre. Why is it? Couldn't that be metre and a
11 half, couldn't that be two metres in those 10 years on
12 certain conditions, and here comes your site
13 degradation.

14 Perhaps there's an element of truth, and
15 I am going to deal with it no doubt in further
16 interrogatories, where I'm going to pose the question:
17 Are you sure that that site is maximizing --
18 maximization of the production. What did we do to
19 decide by doing this and this and this that the trees
20 perhaps could be metre high in ten years and not one
21 metre high.

22 Q. Can I summarize what you have just
23 said then in this way, that the free to grow standards
24 apply across the province and that they apply to
25 different types of cuts?

1 A. Different sites.

2 Q. Different types of sites conditions.

3 A. Different regimes.

4 Q. Different types of silvicultural
5 prescriptions?

6 A. Right.

7 Q. And that the interference in terms of
8 those other factors, in terms of the growth of the
9 trees are sufficient that you would be very hardpressed
10 to determine if there had been -- the role of site
11 degradation in the overall response of the vegetation?

12 A. It will not happen? Did it happen or
13 didn't it happen?

14 Q. I am proposing to you, is that a
15 reason why the free to grow approach using those
16 standards as the basis upon whether to determine or not
17 a site has been degraded it would not be appropriate?
18 Let me try it again.

19 A. Try it again in English.

20 Q. My French is terrible, my Ukrainian is
21 even worse, so I will try it in English.

22 A. Slowly, please, so I can get the...

23 Q. All right. As I understand what you
24 said, you said there is a multitude of factors that
25 affect the growth of the trees on the site?

1 A. Right.

2 Q. Some of the factors you have listed
3 are the type of cut, the type of silvicultural
4 prescription in terms of regeneration, the site
5 conditions?

6 A. Right.

7 Q. And I probably had some others there,
8 but let's just take those three.

9 A. After cutting, prior to cutting
10 because there is quite a difference, too.

11 Q. There is a whole variety of factors
12 that determine the growth of the commercial trees?

13 A. Right.

14 Q. And that if one was to look and
15 determine the role of site degradation in terms of
16 that, you would be very hardpressed because of the
17 interference of all the other factors?

18 A. The effects.

19 Q. The effects?

20 A. That's right.

21 Q. Of all the other factors in being
22 able to decipher the effect of site degradation versus
23 all the other things you have described?

24 A. Yes.

25 Q. Therefore, using the free to grow

1 standards would be an appropriate way to determine
2 whether a site was degraded or not, in your view?

3 A. That's right. That's right.

4 I don't want to confuse people by this.

5 Again, Madam Chair, I think it is these kind of
6 measures of free to grow, the measures of tree dynamics
7 compared to the productivity of the site and the
8 prognostication we know, and it leads me to believe
9 that we should have a free to grow probably for every
10 site, different free to grow, if we use -- if we still
11 use to free to grow.

12 I think free to grow is synonymous with
13 kind of dream of free to fly. It's got to be very site
14 specific, we have to have a system of potential of the
15 site under very site specific conditions.

16 MR. MARTEL: Well, could you tell us what
17 size of chart would you need to catalogue all of this?

18 THE WITNESS: No problem. The Finns and
19 Swedes, they know exactly the performance of these
20 trees in certain times. You have a yield table. These
21 are yield tables, Mr. Martel, which we should have in
22 order to have our wishes fulfilled. After all, you
23 cannot have a sustained yield policy or sustained yield
24 management unless you know how the tree is going to
25 perform in certain time period.

1 When I was in Finland three years ago,
2 people were guiding me, they said: George, this is
3 what it looks like. They take the tables out of their
4 pockets, always table, these yield table. They said:
5 It's not doing as good as it should, why? Why don't we
6 do it.

7 Finns do it, Swedes do it, Czechs do it,
8 even the Russians do it. Why can't we have the pocket
9 books and say: Okay, here we have certain growth,
10 established very quickly, analyse, compare and say:
11 Okay, has it grown as we think or it is not growing.
12 If it grows, come back in five years and check again.
13 If it doesn't, ring the bell and say there is something
14 wrong here, let's do something about it.

15 MR. MARTEL: Do you suggest a spray at
16 that time.

17 THE WITNESS: I didn't say that, you said
18 that.

19 MR. MARTEL: No, I just asked.

20 THE WITNESS: You said that.

21 MR. HANNA: Q. Mr. Marek, that was my
22 next question and I just want to make sure I understand
23 exactly --

24 THE WITNESS: I understand what he said.

25 MR. HANNA: Q. My question wasn't Mr.

1 Martel's about spraying, no.

2 I was going to ask you a question about
3 what measures -- I am going right back to your original
4 point in terms of the factors that you would use to
5 determine whether a site had been degraded and you had
6 the four measures, one of them was measurement of
7 growth?

8 A. Yes, that's a basic one.

9 Q. And that's obviously the best one if
10 you can be sufficiently specific about it because it is
11 really what the tree experiences that matters?

12 A. Right.

13 Q. So if we could develop sufficiently
14 precise free to grow standards --

15 A. Let's call it growth.

16 Q. All right. Sufficient growth
17 standards for less than 20 years in terms of site class
18 and all the factors that you have identified--

19 A. Mm-hmm.

20 Q. --would that serve as an initial
21 basis to decide whether or not more detailed
22 investigation is necessary? I am looking at a way to
23 try and make it efficient.

24 A. Well, in other words, you stop right
25 there and say: It's okay, so we don't have to

1 investigate further, if you mean. No, I think the
2 desired follow-up for any growth is to monitor the
3 growth as frequently as possible.

4 Q. No, I don't think you understood my
5 question. My question wasn't, do we measure it at five
6 years or two years and walk away and not look at it
7 again.

8 My question was rather, can we use that
9 measure as the primary flag in terms of whether more
10 detailed analysis in terms of your other factors is
11 necessary?

12 A. Yeah, okay.

13 Q. So that would be an acceptable
14 approach to you?

15 A. Yes, that would be a good start.

16 Q. Now, I would like to deal with one
17 last part in this interrogatory and that is Sections 10
18 and 11. Sections 10 and 11 are dealing with the Arnup
19 that was introduced by Mr. Greenwood.

20 I believe you are familiar with that?

21 A. Yes, just a second. That's an
22 interrogatory, this same thing.

23 Q. Yes, that same thing, Mr. Marek.

24 A. What question?

25 Q. Question 14, subsection 10 and 11?

1 A. Subsection -- page?

2 Q. Page 8 and carries over to page 9.

3 A. What question is that?

4 Q. Question 14 starts on page 8--

5 A. That's correct.

6 Q. --a quarter of the way down.

7 A. That's correct, I have it.

8 Q. Under question 14, there are
9 subsections and I'm looking at subsections 10 and 11.

10 A. May I approach you?

11 Q. Sure.

12 A. Just tell me where it is. Okay.

13 Q. Now, 10 asks if you are of the view
14 that the Arnup paper is an adequate basis to assess the
15 extent and magnitude of the impact of site degradation
16 in Ontario, and Section 11 on the top of page 9 says:

17 "If not, please describe what additional
18 investigations are seen as being
19 appropriate. Please be as specific as
20 possible."

21 Now, your response didn't seem to address
22 that question right on and I just want to make sure
23 that I fully understand your view on that.

24 Is it your view that that study in itself
25 is an adequate basis to assess the extent and magnitude

1 of site degradation across the area of the undertaking?
2 That study, the one study by itself?

3 A. That's a good beginning.

4 Q. Okay. The study that Arnup has done
5 you are familiar with that, Ecological Services for
6 Planning?

7 A. I beg your pardon?

8 Q. Sorry, The Arnup study, you are
9 familiar with that?

10 A. Yes.

11 Q. That was done in the Clay Belt
12 region?

13 A. That's right.

14 Q. Is it your view that that study, that
15 one research study is an adequate basis to assess the
16 extent and magnitude of the impact of site degradation
17 in Ontario?

18 A. No, I think the whole study is
19 lacking deep perception of No. 1, measuring the
20 degradation and its effect on the growth later on and
21 it is effect, degradation -- and I'm not talking about
22 compaction here, I'm talking about general scope of
23 site degradation effect of disturbance on a site.

24 I think it's good they did it and realize
25 the problem was there, but I think the shear scope is

1 not realized. I think that the follow-up to say, how
2 did destruction occur, we should know; what other
3 ramification of this, the other thing; what is the
4 result in the next 5, 10, 15 years; what possibility
5 does the site have to get out of this degradation
6 period and start balancing itself out, start balancing
7 the process, which is a key issue of the site
8 degradation on the negative side and on the positive,
9 again in the rebuilding of the economy ecosystem. We
10 are building these sites to their original
11 productivity.

12 The other weak point I see is that we pay
13 so little attention -- and this is a very important
14 part. Madam Chair, we pay very little attention to the
15 condition of forest humus. We pay so little attention
16 to the water surpluses and deficit. You know, to some
17 people site degradation is something you can see and
18 say: Well, trees are going to grow on it again.

19 I dealt with that in my presentation of
20 slides and I think this is quite a typical fault. It
21 is a problem which has to be investigated. So what
22 really constitutes, what are we doing wrong that we
23 cause site degradation?

24 I meant, it was suggested that measurement
25 of the growth, the mortality of the trees, the

1 successional stages important one, but in proper
2 forestry we must go deeper than that, we must quantify
3 some of this input and benefits and deficits of soil
4 degradation caused by water, by wrapping or by
5 compacting.

6 As my learned colleagues say, we have to
7 look at the total scope of site productivity and if we
8 going to isolate this individual concern, damages to
9 the certain specific cases to the specific stratas of
10 forest soils, then we going to find out that the
11 indicators so far are very limited.

12 We look, we think we say, so the trees
13 going to grow and nature going to heal, here comes the
14 nature, okay, eventually we are going to have trees and
15 so this is not scientific approach. I think we should
16 really start measuring these things in order to say
17 this and this happen with such ramification.

18 Q. I want to put to you some statements
19 and obtain your views on it with respect to Ontario.
20 The first is, of all forest harvesting techniques,
21 would you agree that ground skidding has the greatest
22 potential to impart soil degradation?

23 A. You said skidding. What skidding?

24 Q. Ground skidding.

25 A. In other words you talk about

1 movement of wood from the cutting sites to the road?

2 Q. Yes, sir.

3 A. Very, very serious impact. This is
4 one thing which I have presented in the slides which
5 bothers us most because we are removing substantial
6 areas of the production due to the disturbance of
7 logging systems, yes.

8 Q. Secondly, of all site preparation
9 techniques, would you agree that windrowing and blade
10 scarification are the most significant in regard to
11 soil degradation?

12 A. Well, I think one of these things has
13 been done by blading, by scarifying and digging holes
14 and digging -- exposing soils, but we are not unique.

15 Mr. Hanna, I have horrible experience
16 from Europe where we always go back to the answers, and
17 we don't find them or we shouldn't duplicate them here.
18 I have seen in Finland areas, hundreds and hundreds of
19 hectares very heavily damaged by thin plow and they
20 recognize it and now they are changing to completely
21 different system.

22 I have seen that our foresters brought
23 these treatments from Europe saying that's going to
24 solve all our problem; of course, it didn't solve
25 because we damage these sites just as well. We abandon

1 these things, get new equipment say, that's going to
2 solve the problem.

3 My answer to problem of site degradation
4 by the scarifying equipment, and you mentioned one or
5 two --

6 Q. I mentioned windrowing and blade
7 scarification.

8 A. Many of them are not sound, sound
9 practices. Windrowing, No. 1, if I may elaborate on
10 windrowing. Windrowing that means what, removal of
11 branches, removal of slash, removal of nutrients from
12 the site itself in piles here on the side.

13 Well, is that a good practice or is that
14 bad. Of course, when you want to accommodate the
15 planters, Mr. Hanna, to walk on a site prepared like I
16 walked just today on the Bloor Street and you are
17 making comfortable for them so they physically can
18 fulfill the planting, plant the trees, well that's one
19 thing, but I think that's not proper forestry.

20 Any removal of small branches and
21 needles, the foliage, you are taking lots of nutrients
22 away, piling them up on one side and put the trees
23 between doesn't make the sense, because any time I dig
24 out these trees or pulled them out, you know, where the
25 root system goes into slash, under the slash that's

1 where nutrients are.

2 And regardless what you plant, if you
3 have jack pine and spruce, and I have dug lots of them
4 recently and here going the root system, where, right
5 into the slash pile, or underneath of the slash pile.
6 So it's common sense to say that nutrients are being
7 removed and the tree is robbed, start looking for these
8 nutrients where they -- that's No. 1.

9 No. 2 in question, the other method you
10 mentioned was.

11 Q. Blade scarification.

12 A. Blade scarification. Of course we
13 have sheer blading, we have blade, we have Young's
14 teeth, all kind of scarifying equipment which when used
15 properly with the efficiency, which is sometimes
16 difficult to achieve, may do well, but in many
17 instances damages are done. In other words, lots of
18 damage is done by improper use of these tools, and I
19 dealt with that issue during my slide presentation I
20 hope, Madam Chair.

21 MADAM CHAIR: Yes, Mr. Marek.

22 MR. HANNA: Q. I am going to put this
23 statement to you --

24 MADAM CHAIR: Mr. Hanna, we are getting
25 close to our -- we are at our afternoon break actually.

1 Is this a convenient time for you?

2 MR. HANNA: Certainly, Madam Chair. How
3 late do you plan to sit today.

4 MADAM CHAIR: Until four o'clock. Thank
5 you.

6 ---Recess taken at 2:45 p.m.

7 ---On resuming at 3:10 p.m.

8 MADAM CHAIR: Please be seated.

9 Mr. Hanna?

10 MR. HANNA: Thank you, Madam Chair.

11 Q. Mr. Marek, when we left off before
12 the break we talked about the possibility of setting up
13 a growth table as a function of species and site class
14 and various things.

15 A. Right.

16 Q. Mr. Martel asked you how big a table
17 you would need. I think the inference was that we have
18 a lot of--

19 A. Yes, I understood him.

20 Q. --combinations and permutations.

21 A. That's correct.

22 Q. Is it your view that it is practical
23 today, based upon the level of knowledge and experience
24 we have in the province with foresters throughout the
25 province, to develop those tables?

1 A. Yes, I think it is. We should start
2 as quick as possible.

3 Q. How long would it take? How long is
4 a reasonable -- and the reason I ask that question,
5 here's what I want--

6 A. Good point.

7 Q. --here's what I want to put your mind
8 around, Mr. Marek, if you can. This Board is faced
9 with making a decision, in their decision in terms and
10 conditions there may be a timetable of implementation.
11 If you were in that situation, what would be a
12 reasonable timetable of implementation of that type of
13 a--

14 A. Well, I think, Mr. Hanna, we have
15 enough experts in head offices, we have enough experts
16 in CFS, Sault Ste. Marie, we have enough people to
17 produce these things to their potential; in other
18 words, ability to deal with it.

19 To speak for them and say give them a
20 timetable, I would push my luck with them because,
21 after all, I am not an expert, I am management forester
22 who likes to have these things for my disposal, and I
23 definitely would push them or I would push the masters
24 of our system to encourage them to maximum production,
25 produce as soon as possible, and while I realize that

1 there are many -- we talked about priority just a few
2 minutes ago, previous priority, there is other priority
3 which I feel should be done, but I think that Research
4 Council, for instance, Research Council who has been
5 cut funding is not a good example that we can expect
6 many of these, you know, immediately or foreseeable
7 future.

8 But I think -- again, I think the reason
9 for this discussion here today, matter of fact, if this
10 whole exercise we're having will have any values,
11 considering the money attached to it, I think it's vary
12 important, Madam Chair, that perhaps this Board will
13 recommend to the government proceed with certain things
14 as quickly as possible in order to facilitate the
15 manager who is under the guns in the field to implement
16 some of the better practices.

17 Q. Would 10 years be too long to wait?

18 A. Oh I think that 10 years is too long
19 for anything. I think that 10 years, we can do things
20 quite better if we put our mind to it, resources to it.

21 Q. Would two years be more reasonable?

22 A. I would guess, it's just a guess
23 please, I cannot be -- because matter of priority, Mr.
24 Hanna, always going to play a role in implementation of
25 some of these recommendations, regardless where it is.

1 And if I would say two years, surely two
2 years we can complete a lot, and if you have a proper
3 research, you have proper funding, understanding, you
4 have groups which is working on that problem.

5 See, Mr. Hanna, one of the big problems,
6 and Madam Chair, one of the big problems we have, to
7 get team together, to research and have results with
8 these kind of demand or request and put the group
9 together through universities, through the MNR, through
10 the system, right up to the federal government.

11 It is a task, believe me, which is not
12 properly understood and not -- we have units all over
13 this country which are in research and somehow we
14 cannot put the proper team together and we talk about
15 multiple system; in other words, you cannot just
16 research putting one man or two men group, you have got
17 to have probably several people working on it as group
18 for longer period of time and you are putting two years
19 or one year, we are dealing with 10 years, put them
20 together, produce as quick as possible results which
21 are desired.

22 That's the problem, put these people
23 together, get them together and work on the problem to
24 get in reasonable time solution to the problem.

25 Q. Would you agree that current

1 legislation and policy in the province regarding the
2 protection of forest soil productivity is inadequate?

3 A. We discuss it, Mr. Hanna, it's not
4 taken seriously as yet. Hopefully research done in
5 other provinces like New Brunswick, Alberta going to
6 encourage this kind of thing, going to say: Look, they
7 do it in B.C., they have a problem, let's do it here.

8 Q. I just wanted to make sure. I said
9 it was inadequate, and you said no. Did you mean--

10 A. It was inadequate.

11 Q. Yes, it is inadequate?

12 A. It is inadequate.

13 Q. Thank you. Would you also -- would
14 you agree that a training program would be useful and
15 should be implemented as quickly as possible to raise
16 the awareness of Industry and Ministry personnel with
17 respect to the consequences of soil degradation?

18 A. You talk about training program.

19 Q. Yes.

20 A. Training program. I understood train
21 program. Training program, you see this going to
22 depend on universities. If we going to produce, where
23 are the scientists?

24 In order to do the work you and I talking
25 about, Mr. Hanna, you got to have staff, you got to

1 have number people interested, dedicated into that, put
2 them into that process or into that field, and I think
3 that I really have trouble criticizing universities.

4 You know, several years I got really
5 blown out of surface people telling me that I am
6 criticizing our universities saying this and that, and
7 I think that people going to -- one of these days they
8 will have to swallow these remarks because I think I
9 was little bit ahead of time.

10 We are talking about universities now
11 changing the curriculum, emphasizing certain things
12 which I said 10, 15, 20 years ago. You got to go into
13 the fields which traditional in Ontario in Canada where
14 foresters were not dealing with, and I got blown, I got
15 blown out of surface, that's not our business, this and
16 that, and you are sticking in your...

17 Agree with you this, educational process,
18 we have to get the scientists brought out into these
19 fields in order to take their place in research
20 forestry.

21 Q. Can you turn to page 17 of the OFAH
22 terms and conditions.

23 A. Is that that report now?

24 Q. No, it's the binder that I provided
25 to you, there.

1 A. Oh here, yeah. OFAH draft terms and
2 conditions. What page?

3 Q. Turn to page 17, please.

4 A. Yes, I got the page 17. Effects of
5 Monitoring, right?

6 Q. No, I'd like to go down to the next
7 section which is--

8 A. Training.

9 Q. Training.

10 A. Right.

11 Q. Okay. And I would like you to look
12 at the terms and conditions there, and I would like you
13 to look specifically at term and condition 98.

14 MS. SWENARCHUK: Do you have an extra
15 copy here, Mr. Hanna?

16 MR. HANNA: No, I don't.

17 THE WITNESS: Okay.

18 MR. HANNA: Q. Term and condition 98.

19 A. "Which member of the planning
20 team..."

21 Q. Yes.

22 A. That's the -- yeah.

23 Q. Mm-hmm. And it says there that they
24 have to attend a specialized course.

25 A. Yeah.

1 Q. And it talks about the types of
2 specialized courses, that they have to be specific to
3 the areas of expertise in looking at the specialized
4 course that the forester responsible for developing
5 silvicultural prescriptions, harvesting techniques,
6 that types of things.

7 A. Right.

8 Q. Looking at subsections (i), (ii) and
9 (iii), would those be the types of action that you
10 would want undertaken to deal with maintaining a level
11 of awareness that is appropriate--

12 A. Mm-hmm.

13 Q. --of the science and application of
14 that knowledge of site degradation?

15 A. Yes. Agreed, very well, but let me
16 warn about one thing which appears to me is necessary
17 in order to do this, where are you going to get the
18 instructors for these courses?

19 Q. Where would we get the instructors?

20 A. Where you going to get them?

21 Q. Where would we get the instructors,
22 Mr. Marek?

23 A. You have to search them, you have to
24 research them, you have to find out if they are really
25 the experts in that field of management for certain

1 area.

2 You see, Mr. Hanna, Madam Chair, perhaps
3 there is another aspect of our problem, and I am
4 dealing now with expertise which will be preparing the
5 young foresters to prepare them for these conditions
6 and demands.

7 When you look at the situation in
8 research at the universities which is extremely
9 specialized and you are talking about team effort even
10 to teach what these, conduct these courses, you will
11 find out that most of them come from United States,
12 southern United States, country which is far away from
13 the boreal forest, experts who were dealing with
14 species not black spruce, but Eucalyptus, and I know
15 some of them, and here I see the manager being exposed
16 perhaps good science vis-a-vis Eucalyptus or southern
17 red pine, southern pines, fast growing pines, but I
18 just don't see the connection that this can be adapted
19 meaningfully to the students who should serve the
20 boreal forest.

21 We haven't got specialized curriculum
22 here dealing with black spruce. Mr. Hanna, do you
23 realize that at some of these universities, forestry
24 faculty, they are not even teaching about natural
25 regeneration of black spruce. Would you believe that?

1 Q. Mr. Marek, I would believe a lot of
2 things, so I won't answer the question, but what I'm
3 more interested in knowing is: I hear what you're
4 saying we shouldn't do, and I accept that, I'm asking:
5 No. 1, in terms of the concept, whether you agree with
6 it, and then I would like to ask you about the
7 practicality. But, first of all, the concept; do you
8 agree with it?

9 A. Yeah.

10 Q. Okay. The practicality. You're
11 suggesting that we don't want someone who has been
12 brought up in Eucalyptus plantations in Kenya in
13 agri-forestry techniques, we want somebody who knows
14 something about the boreal forest?

15 A. Precisely.

16 Q. Okay. Are you suggesting that we do
17 not have that expertise in the province at the present
18 time within the Industry, the Ministry or academic
19 institutions, consulting firms, wherever we might draw
20 from, to at least be able to put on that type of a
21 course for the boreal forest?

22 A. Perhaps we have some, but they have
23 to be searched for.

24 Q. But it's not an insurmountable
25 barrier?

1 A. It may become when you going to find
2 out we have none.

3 Q. Well, Mr. Marek, given what I've
4 heard you speak about, I haven't been here for all of
5 it, you certainly would seem like a possible candidate
6 for that.

7 A. Oh, I don't know about that. You may
8 ask somebody else.

9 Q. Well, I'm sure there would be
10 people -- but I think the point is that there are
11 people, there are units foresters like yourself who
12 have been out there in the field for a long time and
13 there are people in academic settings that the
14 combination of that experience would be useful.

15 A. You complement me, sir, I appreciate
16 it; however, I cannot appoint myself to that role.

17 Q. The next term and condition 99
18 indicates that the responsibility for these workshops
19 should be the Ministry's and that there should be some
20 minimum level of assimilation of the knowledge
21 demonstrated by the attendees. Would you agree with
22 that?

23 A. These seminars have to be done with
24 cooperation because, Mr. Hanna, we all have something
25 to learn, we all require communication. You know what

1 you know, I know what I know, let's put it together and
2 deal with the problem.

3 I think to exclude certain people would
4 be foolish and I think the kind of desired synthesis of
5 cooperation or the integration, I would say, is
6 absolutely necessary which leads me actually to the
7 goal of forest management agreements, integration of
8 silviculture with logging.

9 There is a good chance, you know, to
10 begin this: Are we integrating or are we integrating?
11 Are we doing a good job or are we not? So in the same
12 field of cooperation, the field of science. So I say
13 the cooperation is absolutely necessary, after all the
14 forest is not ours and, yes, indeed, this knowledge
15 should be very useful.

16 Q. The last term and --

17 MR. MARTEL: Can I ask a question?

18 MR. HANNA: Certainly, Mr. Martel.

19 MR. MARTEL: Is there a tendency in some
20 courses, seminars to invite only those you agree with,
21 that someone controversial who might give a different
22 opinion might well be excluded or not invited?

23 THE WITNESS: Oh gosh. Mr. Martel, I
24 think I mention we all have to learn from each other
25 and we will have to in order to even survive. Now, as

1 forester, as a foreign scientist, the people who are
2 managing our forest land are obliged to get closer
3 together and discuss things.

4 If there is a disagreement, if one fellow
5 from orient now would come to me and say: Okay, Joe,
6 let's get -- I agree with you on this and that, I don't
7 agree with you on certain things, I would say: Okay,
8 we agree on this, forget about, we have united
9 approach; if we disagree, let's go to the books, let's
10 go to the science, let's go to the practical knowledge
11 we have and declare what is unresolvable.

12 This process is never ending, Mr. Martel.
13 In Europe foresters -- my father discussed these things
14 for weeks and weeks, but in assembly which is conducive
15 to the good a relationship and understanding.

16 When you start fighting amongst each
17 other, you know, when foresters say - and that's what
18 we have right now, lots of people say - well, he's
19 working for Industry, I'm working for government and
20 there is George Marek consulting, bang! Let's get
21 together and bash our heads. I think that is not
22 conducive to the good knowledge, exchange of ideas and
23 for that matter implementation.

24 Now, if -- and that goes back to your,
25 the knowledge and transfer of knowledge, transfer of

1 technologies should be in harmony. Here is a problem,
2 Madam Chairman, again brought up new subject on this
3 and, that is, the goals and objectives.

4 If the goal of you, Mr. Martel, is
5 different from mine and is irreconcilable; in other
6 words, we cannot agree because you are going to look
7 after your wallet here, how many dollars you are going
8 to have for tonight, and I am going to say: Is that
9 your priority, how many bucks you have for supper, and
10 I am going to say, I don't care, I won't eat tonight, I
11 don't need allowance. Then you going to have a clash.

12 And this is happening in our society so
13 frequently that the objectives, especially in forest
14 management, are different; short-term benefits,
15 long-term benefits, proper management, improper
16 management, serve to whose or whose benefits.

17 And I think that -- one of the problems
18 we have to unite on one philosophy perhaps which going
19 to say or sound something like this, as foresters and
20 forest scientists and true means of this communication,
21 education and so on, we should have one goal and that
22 is not a public, because public eventually get benefits
23 out of it, but it's a well-being of forest itself.

24 I am confident, Mr. Martel, that if we
25 all going to benefit -- we all going to work for the

1 benefits of the forest, not for the benefits of anybody
2 else, because society may go wrong, society may have
3 different demands, but for benefits of the forest as an
4 ethical issue, then I think that resolves many a
5 problem.

6 Q. Can we turn to term and condition
7 101, Mr. Marek, on page 18.

8 A. Is that your interrogatory?

9 Q. No, back to the binder.

10 A. Back to binder. That's the way to
11 speak to me. Back to binder.

12 Q. On page 18, term and condition 101.

13 A. Right.

14 Q. Just looking over that briefly, it
15 sets out a procedure whereby there will be
16 communication through a technical circular to various
17 parties and I want to see if you would agree with that?

18 A. That's a base to disseminate
19 information; right?

20 Q. Yes.

21 A. To educate?

22 Q. Yes.

23 A. To prepare public and general
24 spectrum of society how we --

25 Q. I feel like I'm on the stand, Mr.

1 Marek, but, yes. Go ahead.

2 A. I think that some kind of means of
3 communication has to be initiated in order to
4 communicate in better ways to the public and if it's
5 done by communication or if it's done by certain
6 circular which is aware to the public, as a matter of
7 fact you are ahead of me. I'm not prepared to say what
8 would be a really good thing, but what I'm prepared to
9 say is, if you do this with credibility and do it in
10 such a way that the trust in that kind of -- it
11 changes. It will not be throw out and somebody says:
12 Well, there it goes again, piece of paper.

13 Please understand what I mean. Perhaps
14 Industry and MNR can be criticized by over-using the
15 glossy papers, I will call it propaganda, frequently to
16 influence public. And we know television nowadays, we
17 know what we are selling and this kind of corporate
18 approach do not fit very well into forestry.

19 It seems to me that somehow people are
20 getting fed up with it, just like that cheap mail you
21 get every day. Everybody takes it and dumps it in the
22 next wastebasket. I think that we are indulging kind
23 of exercise of corporate propaganda and MNR is not
24 excluded. MNR does it very well, too. That should
25 abandoned.

1 In forestry, I think this kind of
2 approach does not work very well. At least I'm quoting
3 people I deal with, maybe somebody likes it, I don't
4 know. I think there are ways and means to introduce or
5 transfer knowledge one way, but when it comes down to
6 glorify everything with the rosy glasses, so that's the
7 problem.

8 Q. I hear what you are saying. You are
9 saying that it can be abused.

10 Maybe I will ask you this question first,
11 then come back to it. How would you propose that that
12 technology transfer be carried out other than through
13 the workshop type of approach I have just described
14 with you and the type of technical circular that I have
15 just described to you?

16 A. It is my experience that the best
17 messenger, the best missionary, and I don't believe
18 personally missionaries, the best messenger of transfer
19 of technology, know-how, as a matter of fact anything,
20 state appraisals, audits and so on to the public is by
21 one messenger nad that messenger should be the
22 management forester in the filed.

23 Q. Mr. Marek, I have to stop you there
24 because it seems that we are on two different wave
25 lengths here.

1 A. Probably.

2 Q. You are now talking, as I understand
3 it, communication between the technocrat and the
4 public?

5 A. Oh, no, pardon me. I'm talking about
6 transfer of knowledge. I'm talking about your message
7 to the public through the statement.

8 Q. No, let me say it again. The purpose
9 of term and condition 101 is transfer of knowledge
10 between foresters like yourself and other foresters,
11 foresters involved in research projects.

12 George Marek goes out and has done his
13 detailed plot in soil compaction, he has planted it
14 double the normal density that you would with black
15 spruce and found that it's increased the yield and he
16 then, rather than having, how should I say, a formal
17 scientific journal that has to be circulated across the
18 country or whatever, something is circulated to other
19 foresters to transfer that knowledge.

20 A. You're talking about internal
21 communication between forestry professionals?

22 Q. That's correct.

23 A. Let's call it internal. See, I'm
24 still bureaucrat. Internal. That's one of the
25 problem, that it served very well the purpose of

1 communicating, but it deals with again communicating of
2 goals.

3 For instance, you as a corporate employee
4 are asked to do certain things by corporation, transfer
5 certain things which corporation can benefit from or
6 MNR, for that matter, can benefit from through the
7 channels like you suggest and glorify two things being
8 thrown out of the aircraft to regenerate the forest.

9 The question to ask is, the goals of
10 these companies are different from the goals of MNR or
11 for goals of society at large. Comments. You have to
12 put certain standards to it and standards being that
13 it's a scientific, top scientific impartial
14 investigation, it's not the propaganda which MNR wants
15 to spread that they are doing such an excellent job or,
16 for the matter, Industry is doing such an excellent
17 job. So you have some kind of referee, you set some
18 kind of standards.

19 In Europe, many of these interchanges are
20 done through communication, as you suggested here, but
21 is being scrutinized by a high scientific professional
22 body who says: Look, yes, that's worse, that's go,
23 let's spread the gospel or spread the knowledge.

24 I feel that in our country, which is
25 utilitarian country of many wishes and many goals, that

1 again this, depending where it comes from Industry, if
2 it comes from MNR or if it comes from some other group,
3 going to spread something around which perhaps is not
4 to the standards we should have it.

5 Q. So as I hear what you are saying in
6 terms of term and condition 101, you support the
7 concept as long as there's a safety check that it
8 doesn't become a political propaganda exercise?

9 A. Political or corporate or government
10 propaganda.

11 Q. Well, that it doesn't become
12 propaganda and that it's true, how should I say,
13 scientific knowledge should be exchanged?

14 A. That's right.

15 Q. So that's the further condition you
16 would put on that?

17 A. Yes. But, again, the question is
18 who's going to be the referee, who's going to be
19 referee...

20 Q. Okay. Who should be the referee?

21 A. I think it's going to be somebody who
22 is highly professionally equipped to do this,
23 impartial, impartial and very much aware of the public
24 demands and benefits to the forest.

25 You see, these balances are very subtle

1 but become very important when you talk about really
2 true documentation. Take, for instance, I just can
3 just lead you on certain case which I was involved
4 where scientists were asked to contribute to a certain
5 project, and I discussed it and I said I would like to
6 have these scientists - it was corporate effort, Madam
7 Chair - and when I mentioned certain scientists,
8 immediately the veto was heard very loudly: We do not
9 want that scientist, and I said: Why don't you have
10 that scientist or why can't I have that scientist.
11 Well, this reputation, that and this and he published
12 that which may be causing all kind of trouble in our
13 perception of this.

14 You see, these subtle things can become
15 very important on the objectivity of scientific
16 findings, on the objectivity of man himself and his
17 allegiance to certain things.

18 In my experience, and I am going to say
19 that again here for you, Mr. Hanna, the best thing
20 would be if I could get that information to somebody
21 who is not paid by MNR or by the Industry or the
22 Watchdog Society, for instance, then I can say this is
23 impartial man.

24 Take my foundation, for instance,
25 practically speaking, foundation which never put

1 condition: You will not do this or you must not do
2 that because you don't get contract again and you
3 will -- so that is something which concerns me about
4 your proposal, Mr. Hanna, that this kind of situation
5 may arise very quickly and the maximum objectivity of
6 these reports or assessment will be jeopardized.

7 MR. MARTEL: Isn't that the same problem
8 that I asked you about in No. 99?

9 THE WITNESS: Yes, you did.

10 MR. MARTEL: Because one can set up any
11 type of hearing -- or not hearing, but workshop to get
12 the answers one wants by the type of guests you invite
13 or the type of people you ask to participate.

14 THE WITNESS: But doesn't this depend on
15 the goals?

16 MR. MARTEL: Yes, but you see, I'm not
17 sure everybody's goals are all always so pure.

18 THE WITNESS: Exactly, pure. But, Mr.
19 Martel, we are talking about one pure ideal of forest
20 management, sustained yield management. Now that has a
21 meaning to somebody who knows what sustained yield
22 management means.

23 Now, when you talk about sustained yield
24 management, you oblige yourself, you force yourself in
25 the kind of philosophical content that you will sustain

1 the productivity of the forest on a sustained yield
2 basis. You must not take more, you may take less, but
3 you are regulating something which is deeply inherent
4 in the proper forestry practices and sustained yield
5 management.

6 Now, when somebody departs from it, it's
7 tough luck, you are going to pay for. I have
8 over-cut -- may I suggest this, Madam Chair.

9 MADAM CHAIR: Go ahead, Mr. Marek.

10 THE WITNESS: Well, it's so important to
11 know some of the historical examples. When I was 22
12 years old, as a young forester I had over-cut in my
13 area responsibility so many cubic metres of oak. It
14 was oak which has a high value as the veneer and costs
15 thousands, just like your black walnut. The log cost
16 several thousand dollars. I had over-cut it and I will
17 tell you why, I will be truthful.

18 I had a girlfriend who said let's go
19 someplace, and I didn't come back next day and the
20 cutters kept cutting it and it all got cut.

21 (laughter)

22 MR. HANNA: Was it worth it?

23 THE WITNESS: It wasn't worth it, no,
24 because I nearly got fired. No, it was not worth it.

25 It was lesson to me, Madam Chair, which

1 I'm never going to forget, and perhaps this is example
2 how seriously, what kind of goals and commitment one
3 should have.

4 Who's talking about girlfriends again.

5 Do you understand the kind of goals
6 should be taken seriously and should serve one goal and
7 that is -- the goal is to exercise your professional
8 knowledge to set the standards, and if you don't -- and
9 that standard should be clear, the commitment to the
10 forest, to all cutting. I didn't do it and I nearly
11 got fired.

12 So what the lesson is for all of us, that
13 piece of oak may be much more expensive than a
14 girlfriend.

15 MS. SWENARCHUK: Add that into your
16 timber management plan.

17 MR. HANNA: I am looking forward to
18 seeing that in FFT's terms and conditions.

19 Q. I would like to go to goal
20 statements, though, quite seriously, Mr. Marek.

21 A. Seriously.

22 Q. I would like to turn to page 1 of the
23 terms and conditions in the binder, please.

24 MADAM CHAIR: Your terms and conditions,
25 Mr. Hanna?

1 MR. HANNA: Yes, Madam Chair. The black
2 binder, Mr. Marek.

3 MR. HUFF: (indicating)

4 THE WITNESS: I am getting mixed up here
5 again. Okay, sir.

6 MR. HANNA: Thank you, Mr. Huff.

7 MR. HUFF: Anything I can do to help the
8 Anglers and Hunters.

9 MR. HANNA: Q. The term and condition 3
10 and 4 under the heading Goal Statement, do you see
11 that, Mr. Marek?

12 A. Yes, goal statement 2.1 and...

13 Q. Okay. I just want to make sure that
14 the goal statement stated there in terms of 3 is
15 consistent with the type of goal statement that you
16 have set out.

17 A. "Provide a particular supply..."

18 Q. Yes.

19 A. "Resource benefits from the forest
20 estate to the management of the forest
21 structure."

22 Forest structure is just one paragraph of
23 it.

24 Q. Okay. What are the other parts?

25 A. The forest structure, of course, is

1 important, but the harvesting is one, the structure
2 which fits into this, then you have to have, of course
3 removal --

4 Q. Sorry?

5 A. You have to have removal with this
6 because when you talk about structure you talk about
7 structure. Forests has many structures, and
8 Baskerville said that here many times. We have a
9 thousand different forests. So if we agree on certain
10 structure of the forest, we definitely will have to
11 agree what that structure means on certain conditions.

12 So, again, the goals and objectives of
13 forest management. They should be clearly stipulated
14 here because it seems to me, Madam Chair, that we are
15 not quite clear sure what the structure of forest
16 actually should be after with we -- we know the
17 previous forest structure because we have Plonski yield
18 tables, but when we come down to the new forest, then
19 we don't know.

20 Q. Right. But we have to make the best
21 use of the information we have and make the best
22 forecast we can and look at what structures are
23 possible and determine the one that we would like to
24 achieve and the best way we think we can achieve that?

25 A. Well, yeah. The structure changes

1 all the time. This is the unpredictability of the new
2 forest, we are talking about risks involved and so on.
3 When you are talking about new forest structures, that
4 structure may change every 10, 15, 20 years, you have a
5 different forest there.

6 So I agree that we may start place and we
7 may look at this and say okay and be able to predict
8 probably the structure of the forest in the next 10, 15
9 years, but it's a very difficult task because we
10 haven't got that experience. We think that forestry is
11 not a dynamic process of changes, it's a fairly literal
12 progression of certain predictable causes, and this is
13 a problem I have with many foresters where I said --
14 and I showed my slide here for hours, that you don't
15 know actually what's happening in the next decades with
16 these stands because there is such variable influences,
17 but, okay, fine, I agree with you.

18 Q. What you are really saying is to
19 provide a predictable supply to the extent practically
20 possible?

21 A. Practically.

22 Q. That's really what you are saying?

23 A. That's right.

24 Q. Okay. The fourth term and condition
25 is similar to what you have described in terms of the

1 optimum mix of resource benefits.

2 A. Mm-hmm.

3 Q. I would like to deal specifically
4 with No. 1, subsection 1 of 4?

5 A. Yes.

6 Q. And that is do you agree that it's
7 important to provide a range of alternative
8 combinations of resource benefits supplies, what I call
9 or Dean Baskerville calls production possibilities?

10 A. Yeah.

11 Q. Do you see that as a key element in
12 doing that analysis?

13 A. In multi-purpose forestry, obviously,
14 that's a very -- and you should say there multi-purpose
15 forestry because when you talk about single-use
16 forestry or single resource forestry, for instance,
17 production of high quality timber and production of
18 timber period, then you talk about different parameters
19 altogether, but agree for multi-purpose forestry.

20 We have not decided as of yet, Madam
21 Chair, what we're talking about. Multi-purpose
22 forestry is a very broad term, but yes, in
23 multi-purpose forestry you will have to consider all
24 range of authorities, vis-a-vis combination of resource
25 benefits, supplies. Agreed.

1 Q. It is something that, from your
2 experinece as a forester, if you provide to the public
3 a reasonable range of alternatives that that will
4 assist them in being able to make reasonable input?

5 A. Yes.

6 Q. Rather than give them one alternative
7 to choose from?

8 A. Well, in multi-purpose forest there
9 is no such thing as one. If you have a timber
10 production area designated for timber production, there
11 are two real alternatives beyond. It's a special
12 branch of forestry and timber is the top involvement.

13 If you have multi-purpose forestry, then
14 of course you have to go into a different approach
15 altogether. You have to very quickly know what the
16 multi-purpose is, what the goals of the multi-purpose
17 foretry are, what are the interests of other users and
18 their perception of the benefits coming from the
19 multi-purpose forestry.

20 Q. I understand from the evidence that
21 you gave on behalf of the Watchdog Society that
22 subsection 2, the need for extensive public
23 consultation, is something else that you feel strongly
24 about?

25 A. Yes, very much so.

1 Q. Now, if you will keep that document
2 this front of you--

3 A. Yes.

4 Q. --and turn to term and condition 162
5 to 169 which starts on page 29.

6 A. Yes. "Timber management
7 initiatives..."

8 Q. Yes.

9 A. "Conservation of wood fiber
10 resources..."

11 Q. Right. As I understand your
12 evidence, you have described a number of circumstances
13 where there was extensive and, in your view,
14 unnecessary wood wasteage; is that correct?

15 A. Yes, I think so.

16 Q. Now, I'd like to go through these one
17 at a time and see if this is consistent with your view.
18 162 and 163 deal with something I don't that you
19 discussed and that was encouraging the reuse of wood
20 fiber?

21 A. Yeah.

22 Q. And I would like you to look at that
23 and see if you would agree with those two terms and
24 conditions as being important in terms of the overall
25 conservation type objectives that you have described in

1 your evidence?

2 A. That's very positive steps to
3 eliminate the waste to fiber and recycle as much as
4 possible, and I don't think nowadays anybody would
5 disagree with it. We should encourage it and I think
6 it's going to be future trend anyway, recycling.

7 Q. Okay. One of the concerns that's
8 been raised in terms of recycling fiber, and I'm sure
9 as a resident of Beardmore it's one that you will be
10 sensitive to, and that is that the benefit in terms of
11 the recycled fiber is derived primarily by the urban
12 centres, recycling occurs in those centres and so the
13 employment and all those sort of things have negative
14 effects potentially on a community like Beardmore?

15 A. Employment.

16 Q. You're aware of that?

17 A. Yeah, I'm aware of it.

18 Q. One of the proposals that is being
19 put forward is to use various mechanisms to try and
20 encourage those benefits to be realized by northern
21 communities to the greatest extent possible.

22 Would you be generally in support of
23 that?

24 A. Yes, I would.

25 Q. Have you any specific ideas how that

1 you might achieve that in terms of increasing the
2 benefit that northern communities would realize from a
3 recycling program of wood fiber?

4 A. How would northern community
5 appreciate, that's what you are saying?

6 Q. Benefit.

7 A. Benefit. Appreciate--

8 Q. Okay, fine.

9 A. --the recycling scheme. That
10 requires quite a thought with the options the northern
11 communities have period in the scheme of employment,
12 the benefits, the business, the demands.

13 So I will be very vague about this. I
14 know it's a big issue. If Beardmore perhaps or Red
15 Rock will be faced with father losses of employment in
16 view of recycling, and this way of course further --

17 Q. Mr. Marek, I hate to interrupt you.
18 Perhaps what we should do with this one is, can we put
19 that one on the back burner until tomorrow morning and
20 I will give you some time to think about that.

21 A. Mr. Hanna, I am here to respond to
22 many questions and I'm willing to do it and I enjoy
23 that very much, but when it comes down to a
24 hypothetical thing, how people in Beardmore -- and
25 that's what you're asking me, what their reaction will

1 be. We fairly well know how people are going to react
2 to these things.

3 Q. Mr. Marek, just to be sure. That
4 wasn't my question. My question was, the mechanisms
5 that might be used to distribute the benefits or
6 redistribute the benefits of recycling back to a
7 community like Beardmore, if you had any specific ideas
8 in that sense.

9 I know you are involved, for example, in
10 a community forestry program, what type of -- is
11 something comparable like that that can be used in
12 terms of obtaining benefits from recycling fiber?

13 A. Okay. My computer is telling me
14 this, and that computer is here, that indeed there will
15 be and must be some benefits from this, not that we are
16 going to lose jobs, not that we are going to produce
17 less papers or this is going to be constant, but what
18 must happen is this: If people in Beardmore will note
19 that possibilities of further employment due to this
20 have an impact on the community, the government should
21 initiate a program which will balance this thing and
22 put people to work in silviculture, in stand
23 improvement, in things which we have neglected so many
24 years.

25 I am just thinking right now about

1 Gordon, Gordon Baskerville who suggested very briefly
2 in his report that spacing and improvement of the
3 present stands which are growing up; in other words,
4 getting into dynamics of things, people involved would
5 be one thing.

6 I think that we will be limited one way
7 or other in the future. When you talk about
8 sustainable development across the board, when you talk
9 about recycling is one of the first step, recycled
10 fiber, I must point out that in future there will be
11 times coming where we are going to cherish sawlogs or
12 wood fiber much higher than we do right now.

13 Right now, it seems to me that we are
14 using fiber and wasting fiber on things like newspaper,
15 where perhaps in the next 20, 30 years we are going to
16 use it for much more important products. Okay.

17 So if we are going to have timber
18 available, and I think there always will be forests in
19 this country, we will have to improve and put people
20 back in the jobs to improve the quality and improve it
21 in the silvicultural terms. That means involvement
22 through rejuvenation, way down to tending, to the
23 better products.

24 So what I would do here, I suggested,
25 Madam Chair, that there is room for people getting

1 involved, regardless what's happened on the market,
2 what's happened to recycling. People have to be
3 involved in forestry, people have to go in the forest,
4 start qualitatively improving the forest and that will
5 be a beginning, a start, good substitute.

6 It bothers me to no end that we are not
7 using these. Already we have a community of Indian
8 people, natives, who could be probably used in this
9 way, to integrate them into the forest management by
10 improving quality of the stand, not for tree planting
11 only, but do the improvement of the growth techniques
12 which were used for centuries, and I think perhaps our
13 native people should be best suited to it.

14 As far as the reaction, I go back again
15 what people of Beardmore think of this, which you
16 suggested in the first place, they frequently say:
17 Let's put money back into forest, let's put government
18 in the position to put what came out of the forest back
19 into forest. And we don't do that, No. 1.

20 And No. 2, many people in the community -
21 and there are community around forest, I wonder if they
22 are sincere enough to go back - like people in Finland
23 or Norway and in Europe - go back and really are
24 willing to do that job, and here I am talking about
25 people who perhaps going to be faced with lower wages,

1 people who will have to get used to manual work they
2 never did before, youngster who nowadays goes there and
3 that and have to go in the bush to start thinning the
4 forest or do pruning or whatever the task may be.

5 So we are in quite a different game,
6 Madam Chair, that society, if they going to demand from
7 the forest certain quality, certain revenues, certain
8 outputs, going to go back one way or the other and
9 start putting something back by doing this kind of work
10 perhaps they don't like to do.

11 And here's the problem, a social problem,
12 if we are ready for that situation where people indeed
13 got to sacrifice the standards and certain standards
14 and certain thinking and go back and do that job. I
15 don't think I am going to think better tonight, so this
16 may be perhaps the answer to you.

17 Q. Thank you. Can you look at term and
18 condition 165, please, and this deals specifically with
19 the issue of wood wastage.

20 A. Yeah.

21 Q. And what's being proposed is that
22 after an area has been harvested--

23 A. Yeah.

24 Q. --that as a regular post-operation
25 exercise that there will be sampling of felled wood,

1 wood left in the bush, and that that information will
2 be summarized and made available to the public and; in
3 the event that the wood is felled and not extracted and
4 there was an adequate reason for it not to be
5 extracted, that that would be charged stumpage?

6 A. Well, that waste always be under
7 Crown Timber Act considers as a waste and the penalties
8 and so on - I don't want to go into that - but perhaps
9 better enforcement is necessary. But when you talk
10 about total utilization of our resources and when you
11 talk about how we going to improve it, I think that --

12 Q. There is no suggestion there, Mr.
13 Marek, of total utilization, whole-tree logging or
14 anything like that; the suggestion is simply that we
15 need information collected on a systematic basis in
16 terms of wood wastage. Would you agree with that?

17 A. Yeah, but what is wood wastage. Is
18 that wood, you know, four inches at top. See, you have
19 to quantify these things very carefully because
20 according to Crown Timber Act waste is specified
21 directly what it means; in other words, by diameters,
22 by length, overall and so on.

23 When you talk about wastage, in terms of
24 what I feel wastage is, it's one thing; when I go to
25 Domtar I say: You are wasting wood, he says: We

1 cannot put it through the mill, so we have to leave it
2 there. So you talk about wastage in two different
3 situations.

4 Wastage is something which we should
5 prevent, and I think further technology and utilization
6 of wood fiber is absolutely necessary, that should be
7 in the plans, in the Crown Timber Act, and when you
8 talk about the factual wastage very much depends on a
9 new technology of full-tree chipping and what I can get
10 out of it, and this going to be the answer probably
11 but, yes, the wood which is wasted should be charged
12 for and I think government should change, and I said it
13 before here two days ago, that government should
14 institute a law, prepare law where the accounting under
15 Crown Timber Act will be changed, force the company for
16 better utilization.

17 Now, how you going to measure it and how
18 you going to deal with this criteria, I cannot answer
19 that, I'm sorry, but I know that there's lots of fiber
20 lying there on the ground which should be utilized but,
21 "utilization or waste", is something which have to be
22 quantified as yet.

23 Q. And you will note that these terms
24 and conditions, 165 and 166, don't make a blanket
25 statement across the province as to what wastage is.

1 A. Mm-hmm.

2 Q. It merely sets out--

3 A. Yeah.

4 Q. --the requirements that must be
5 carried through by the harvester in terms of what fiber
6 is left in the bush and the reasons why that wood is
7 left.

8 A. Yeah. By the same token you are
9 talking about, while it's sampling the technology and
10 while it's sampling, the technology is bound to have a
11 certain criteria and once starting criteria immediately
12 talk about sizes, dimension and fiber, it's
13 self-evidend.

14 So, you know, immediately you have to be
15 more specific and this is what - perhaps I'm going
16 ahead of you in these things - I like to see once you
17 tackle this problem that, you know, these standards
18 have to be appraised at its own merits and, that is,
19 you have a company who say: I cannot utilize it
20 because my mill is not able to take undersized wood.
21 Undersized wood may go up to 10 per cent of the load in
22 some cases.

23 Q. Mr. Marek, subsection (i) of 165
24 specifically says that the estimate of wood volume
25 should be by piece size and type categories.

1 MADAM CHAIR: Mr. Hanna, we're wasting
2 time here. Mr. Marek has already said he doesn't
3 disagree with what you're saying, but he goes much
4 beyond that.

5 We have evidence that he wants to change
6 the requirements for definition of merchantable timber
7 in the Crown Timber Act and he's made suggestions for
8 more efficient scaling in the bush. So certainly
9 whatever your condition says Mr. Marek has agreed and
10 then taken it a step beyond that.

11 What I'm saying is, I think we are
12 finished getting anything more useful for the Board out
13 of this point, and it's five o'clock -- or four
14 o'clock, rather.

15 MR. FREIDIN: Feels like five o'clock.

16 MADAM CHAIR: How much longer are you
17 going to be tomorrow, Mr. Hanna?

18 MR. HANNA: I had hoped to finish today,
19 Madam Chair. I will certainly be finished before noon.

20 MADAM CHAIR: All right.

21 MR. HANNA: And I hope to be finished
22 before that, substantially.

23 MADAM CHAIR: Thank you.

24 Thank you, Mr. Marek. We are going to
25 have, I think, a fairly short procedural session now.

1 You are invited to stay, but you don't have to.

2 THE WITNESS: I cannot talk, so why
3 should I stay. Thank you for invitation anyhow.

4 ---(Witness withdraws)

5 ---Short recess

6 ---On resuming at 4:05 p.m.

7 MADAM CHAIR: Good afternoon, Mr.
8 Lindgren.

9 MR. LINDGREN: Good afternoon, Madam
10 Chairman, Mr. Martel.

11 MADAM CHAIR: The Board has two brief
12 comments to make on Dr. Payne's witness statement.
13 The first comment is that Dr. Payne discusses many
14 aspects of values.

15 MR. LINDGREN: Right.

16 MADAM CHAIR: But he says little -- in
17 our reading of his witness statement, he says very
18 little about MNR's role as a resolver of conflicts
19 among parties who hold different values, and we are
20 inviting him to make a comment about that specifically.

21 We understand what he's saying about the
22 value structure within MNR, but we are asking for him
23 to comment on their role of resolving groups holding
24 different values in this process.

25 And our second question is this: Is it

1 Dr. Payne's view that if MNR were to improve the
2 quantity and quanlity of the socio-economic data that
3 they collect - and this appears to be one of Dr.
4 Payne's major recommendations that they do that - if
5 they were to do that, would he assume immediately that
6 they would provide better protection to non-timber
7 values simply by the fact of doing more socio-economic
8 data, as he's saying that he believes doing that would
9 lead to better protection of non-timber values?

10 And those are the only comments the Board
11 has to make about witness statement No. 4.

12 Mr. Lindgren, did you have questions for
13 the other parties with respect to their statements of
14 issue?

15 MR. LINDGREN: Well, I have read the
16 statement of issues, Madam Chair. I believe I
17 understand most of the areas the other parties intend
18 to cross-examine on and we certainly look forward to
19 those questions and we will certainly take the
20 statements of issue into account when we adduce the
21 evidence-in-chief which I would estimate to be
22 approximately one day in length or less.

23 MADAM CHAIR: I'm surprised, Mr.
24 Lindgren, that it was clear in the statements of issue,
25 considering the OFIA's statement of issue. I don't

1 think that gives us a lot of direction with respect to
2 the length of cross-examination.

3 Ms. Cronk, are you doing the
4 cross-examination on this panel?

5 MS. CRONK: No, I am not, Madam Chair,
6 Mr. Cosman is and I have spoken to Mr. Cosman and I am
7 aware of the concerns with respect to this statement
8 which I can tell you is not -- and I asked him
9 specifically what length of time he presently
10 anticipated for his cross-examination and he does not
11 know yet. He is in the course of reviewing the
12 interrogatory responses to date and receiving others,
13 some of which I have been handed just a few minutes
14 ago. As soon as I know that estimate, I will provide
15 it to you.

16 MADAM CHAIR: Thank you.

17 MR. LINDGREN: I take that, Madam Chair,
18 as an indication that Mr. Cosman will in fact
19 cross-examine.

20 MS. CRONK: Oh, I think that is quite
21 certain.

22 MR. LINDGREN: Thank you.

23 MADAM CHAIR: Do the parties have
24 anything they wish to comment on with respect to the
25 witness statement?

1 MS. BLASTORAH: Mrs. Koven, I have one
2 point and I did discuss this briefly with Mr. Lindgren
3 this morning, that's in relation to answers to
4 interrogatories.

5 We did request -- we sent a letter this
6 week asking for answers to some of the interrogatories
7 in the cases where we felt the answers provided had
8 been unresponsive, and Mr. Lindgren has advised that he
9 hopes to have those answers to us by the end of the
10 week. We look forward to receiving those.

11 We are specifically concerned, and this
12 is an ongoing concern that we've had since Panel 1
13 basically of Forests for Tomorrow's case, we are not
14 receiving responses to our interrogatories No. 1 and 2,
15 No. 1 specifically being the one asking for the terms
16 and conditions proposed by Forests for Tomorrow which
17 this evidence is intended to support.

18 And I am just wondering -- I spoke
19 briefly with Mr. Lindgren this morning and he indicated
20 that we would be getting those answers, and I would
21 just like to confirm whether that includes answers to
22 No. 1 and 2.

23 MADAM CHAIR: Well, so far it hasn't been
24 much of a big deal with respect to these panels, Ms.
25 Blastorah. For example, Mr. Marek handled a question

1 with respect to which terms and conditions his evidence
2 was meant to address in four minutes.

3 MS. BLASTORAH: That may be.

4 MADAM CHAIR: What is it that you want?

5 MS. BLASTORAH: Well, our concern frankly
6 is that it's very difficult to prepare to cross-examine
7 a witness when we are not entirely sure what that
8 witness is trying to ask the Board to do, like, what
9 the purpose of that evidence is for and, frankly, in
10 the case of Dr. Payne's evidence, specifically we are
11 having some difficulty determining what exactly, in
12 terms of practical terms and conditions, this evidence
13 is intended to support.

14 MADAM CHAIR: All right. Well, I would
15 expect, Mr. Lindgren, in that case that during direct
16 examination you can ask Dr. Payne and he can readily
17 provide exactly the terms and conditions that will be
18 supported by this evidence.

19 MR. LINDGREN: Well, Madam Chair, the
20 difficulty is this: Our revised terms and conditions
21 are not due to be filed until November 28th. I quite
22 frankly see little or no value in referring to some of
23 the previous draft terms and conditions where they may
24 be revised.

25 This is a matter I've discussed with both

1 Ms. Blastorah and Ms. Murphy and I have responded in
2 writing and responded orally. Our position was and is
3 that our terms and conditions will be provided on the
4 date set by the Board and we are not in a position to
5 disclose them in advance of that date.

6 Now, there are, of course, certain
7 planning elements to Dr. Payne's evidence and he will
8 certainly be speaking to those, and I hope that my
9 friend's concerns will be alleviated through that
10 discussion in-chief.

11 As Ms. Blastorah indicated, I have had
12 again another conversation about this issue, I can
13 advise her, I can advise the other parties, and I can
14 advise the Board that our formal response to the
15 request for additional interrogatory responses will be
16 filed tomorrow or the next day. And perhaps, again,
17 those answers may in fact satisfy or alleviate my
18 friend's concern.

19 MADAM CHAIR: Well, it's obvious, Mr.
20 Lindgren, that with respect to the OFIA and the MNR,
21 their questioning how useful the evidence of Dr. Payne
22 is to--

23 MR. LINDGREN: Well, Madam Chair --

24 MADAM CHAIR: --to the hearing.

25 MR. LINDGREN: All I can say is my friend

1 should perhaps re-read the witness statement and listen
2 carefully to the evidence-in-chief and I think the
3 relevance of the evidence will be abundantly clear to
4 my friend.

5 MS. BLASTORAH: Well, Mrs. Koven, I'm
6 sorry, but I really -- I look forward to receiving the
7 answers to the undertakings and it may well be that
8 some of our concerns will be alleviated, but I must
9 reiterate that we have read the witness statement, we
10 have read it very carefully. I don't raise this matter
11 idly, I don't like to take the time of the Board to
12 deal with things which should properly be dealt with
13 between counsel.

14 However, we have stated this request a
15 number of times with every panel that has come forward
16 so far and it's all well and good for Mr. Lindgren to
17 say that we will hear Mr. Payne's evidence-in-chief,
18 but that is of little assistance to us in preparing to
19 cross-examine him.

20 We are trying to do that now. That
21 requires taking instructions from our client, it
22 requires discussing his evidence with experts who are
23 attempting to assist us in developing
24 cross-examination. And to simply state that those
25 terms and conditions are not available, I don't think

1 ° answers the question.

2 The question is: Why are they calling
3 this evidence? Surely they must know. Whether or not
4 they have their formal terms and conditions drafted. I
5 mean, if they don't want to give us formal terms and
6 conditions before they file them with the Board, that's
7 well and good, but the question is: Just tell us what
8 it is they are intending the Board to draw from this
9 evidence.

10 MADAM CHAIR: Well, it's obvious from the
11 Board's reading of the evidence that the second part of
12 Dr. Payne's evidence is very specific with respect to
13 which what sorts of changes it would like to see in the
14 Ministry of Natural Resources. I mean, you don't have
15 to be, you know, a specialist to understand what he's
16 saying.

17 I think the Board shares some concern,
18 and that is, the first part of the witness statement is
19 very wide ranging and theoretical with respect to
20 defining values and what they are.

21 Obviously the Board would like to see
22 examination-in-chief concentrate on the second part of
23 the witness statement where there are very practical
24 aspects of what his theory means in application to the
25 timber management planning process.

1 MS. SWENARCHUK: Madam Chair, may I just
2 make one further comment on this issue, which is really
3 rather surprising to us.

4 When we consider, for example, that the
5 Ministry's case began on May the 10th of 1988 and we
6 received Ministry's terms and conditions on June the
7 30th, 1989, and all of us prepared cross-examinations
8 and proceeded through that matter for that entire time
9 without having terms and conditions to attach each
10 witness statement and each cross-examination to.

11 My second point refers to the question
12 that has been asked by the Ministry on every panel of
13 our evidence to date, in fact it was even asked of the
14 Beardmore group, and that is Question No. 2, and it has
15 to do with costing proposals for change, and we have
16 responded to that question consistently that our
17 evidence with regard to economics and costing, to the
18 extent that our resources have permitted us to put it
19 together, will be available to the Board and to the
20 parties in our witness statement No. 7 and in fact, of
21 course, is now available to the parties, but that
22 question has been consistently answered with the whole
23 story that we are able to bring before the Board. That
24 panel will deal with questions of cost to the extent
25 that we can.

1 MADAM CHAIR: Thank you, Ms. Swenarchuk.

2 As you know, the Board has had some curiosity about how
3 the intervenors were supposed to cost out their
4 proposed changes to the timber management plan from day
5 one, but certainly we feel if it's being addressed in
6 some way, at least in one panel, that should be
7 sufficient.

8 MS. BLASTORAH: Well, I would like -- I
9 feel it's incumbent on me, Mrs. Koven, to answer a
10 couple of the points that have just been raised and I
11 will start with the one you were just mentioning.

12 The most recent letter that Ms. Murphy
13 sent to CELA indicated that we have carefully reviewed
14 Panel 7 and the type of information that we are
15 requesting is not, based on our review, contained in
16 that document and we are asking for not necessarily a
17 dollars and cents estimate, if your witnesses feel, or
18 Forests for Tomorrow feels that they are unable to
19 provide that information, our term and condition
20 specifically asks for the type of cost items that are
21 to be included in that. We are asking for their best
22 estimate of how they go about determining those costs,
23 so...

24 MADAM CHAIR: Well, the Board still has
25 some question about whether that's the job of the

1 intervenors, Ms. Blastorah.

2 MS. BLASTORAH: Well, I would remind the
3 Board then perhaps of a comment made by Mr. Lindgren
4 during the evidence in Thunder Bay, and I frankly can't
5 remember which panel it was --

6 MR. FREIDIN: Panel 15.

7 MS. BLASTORAH: Panel 15.

8 MADAM CHAIR: Thank you, Mr. Freidin.

9 MS. BLASTORAH: Where the former Chairman
10 asked Mr. Lindgren about this particular issue and Mr.
11 Lindgren himself indicated he felt it would be
12 irresponsible for the intervenors not to make their
13 best effort to at least put some kind of cost estimate
14 on the terms and conditions they were proposing. We
15 have to have some context in which to review these, we
16 have to at least know whether they are looking at them
17 in context.

18 MADAM CHAIR: So far as the Board knows
19 at this point that is supposed to be addressed in Panel
20 7. You are telling us that it's not addressed
21 adequately.

22 You've got lots of time, Mr. Lindgren,
23 between now and when we will have to make some
24 decisions about how well that's been addressed to deal
25 with Ms. Blastorah and the other counsel on this

1 matter.

2 MS. SWENARCHUK: With great respect to
3 counsel for the Ministry, Madam Chair, you have just
4 heard from us that our best efforts to produce evidence
5 before this Board are now in the hands of the other
6 parties, and if the Ministry is not satisfied with our
7 efforts, that's unfortunate. We have doubled what our
8 resources permit us to do and what in our judgment is
9 appropriate to do. Ms. Blastorah's client may be
10 dissatisfied with that, but frankly my instructions
11 from my client lead me to attempt to produce evidence
12 before you that satisfies my client rather than the
13 Ministry.

14 MADAM CHAIR: Okay. We are not going to
15 talk about this any more right now. You have heard
16 from Forests for Tomorrow, it sounds like you're not
17 getting much more information. If you want to make an
18 issue of this before we get to Panel 7, then I suggest
19 that you bring a motion before the Board to do that, or
20 hopefully sort it out with the counsel.

21 MS. BLASTORAH: We will continue our
22 efforts to do that, Mrs. Koven, which we have attempted
23 to do to date.

24 Certainly we don't enjoy bringing these
25 matters before the Board and taking the time of the

1 Board to deal with these issues, as I indicated, that
2 can be dealt with between counsel.

3 We do have a number of matters, as I have
4 said. We have been advised that we will be receiving
5 additional answers to interrogatories, we will wait and
6 review those.

7 It was simply an attempt to scope the
8 evidence of this panel. We were hoping that perhaps if
9 we could get some sense of the purpose for which the
10 evidence was being called, particularly as you
11 indicated the first part of the evidence, we may be
12 able to reduce our cross-examination. Under the
13 circumstances, we will do the best we can.

14 MADAM CHAIR: Well, we are asking Mr.
15 Lindgren to concentrate or to direct the
16 examination-in-chief. We think the second part of that
17 information is obviously very -- it's more relevant and
18 it's more applied to the issues we are looking than
19 philosophy of value structures.

20 MR. LINDGREN: I think you are probably
21 correct, Madam Chair, but I would make one comment and,
22 that is, in order to describe how non-timber values
23 should be protected or identified or managed, we have
24 to know what they are, so to a certain extent we have
25 to talk about --

1 MADAM CHAIR: The Board understands that,
2 yes.

3 Are there any other comments about this
4 witness statement? Shall we get some estimate how long
5 the parties plan to be in cross-examination.

6 Ms. Blastorah?

7 MS. BLASTORAH: It's very hard to --
8 difficult to estimate, Mrs. Koven, we only received --
9 or at least I only received the OFAH interrogatory
10 answers this morning and I haven't even had time to
11 finish reading them.

12 I would estimate one to two days, very
13 rough estimate at this point.

14 MADAM CHAIR: Ms. Cronk, have you talked
15 to Mr. Cosman?

16 MS. CRONK: I'm sorry, Madam Chair, you
17 may recall that a few moments I indicated that I did
18 ask Mr. Cosman and he was unable to indicate until he
19 reviewed the interrogatories and received the balance,
20 but I had indicated that I will speak to him and I have
21 undertaken to inform you and other counsel as soon as
22 he can. I'm undertaking to inform Mr. Cosman, as if he
23 didn't know better.

24 MADAM CHAIR: Well, tell Mr. Cosman the
25 Board thinks he's can do this very efficiently as he

1 has shown in the past and we will put him down for a
2 half day.

3 MS. CRONK: I see. I will communicate
4 that, Madam Chair.

5 MADAM CHAIR: And maybe he'll surprise us
6 and only be an hour. Okay.

7 Ms. Seaborn?

8 MS. SEABORN: Two hours, Madam Chair.

9 MADAM CHAIR: Thank you.

10 MS. BLASTORAH: And I hate to rise again,
11 Mrs. Koven. There was one other matter in relation to
12 this panel, there was in one of the interrogatories a
13 request for a document and while we requested
14 production of a number of documents and Mr. Lindgren
15 has very kindly now indicated that he will provide
16 those, there was just one that I understood there was
17 still some disagreement with or problem in relation to,
18 one of the documents that was cited in Dr. Payne's
19 curriculum vitae which was cited as a document prepared
20 in 1987.

21 And we have been advised that that
22 document cannot be provided because it was prepared
23 under contract of the Ministry of the Environment, and
24 we have had some conversations with Ms. Seaborn about
25 that and, unfortunately, I didn't get a chance to speak

1 to her today before we started the scoping session, but
2 it's my understanding that the Ministry of the
3 Environment has no objection to the production of that
4 document and, in any event, it was prepared using
5 public funds so it would be available even it were in
6 the hands of the Ministry of the Environment.

7 MADAM CHAIR: If the Ministry of the
8 Environment owns the data or owns the document, then
9 have them produce it.

10 MS. SEABORN: We don't have the document,
11 Madam Chair. I'd be happy to produce --

12 MADAM CHAIR: This is a poor example of
13 cooperation between two ministries.

14 MS. SEABORN: Exactly. I have spoken
15 with Ms. Murphy on the telephone at length about this.
16 This was a document prepared under a grant from the
17 Ministry of the Environment to the FON. The Ministry
18 of Environment would be pleased to receive the document
19 in final form, I am told it's not ready, and my
20 position is that we obviously can't produce something
21 that we don't have.

22 I can also add that I haven't had an
23 opportunity to review myself the terms of the contract
24 between the FON and the Ministry of the Environment and
25 I understand that within that contract there is a

1 statement that the FON undertakes to provide this to
2 the Ministry of the Environment before it goes anywhere
3 else.

4 So as I said, if I had it I could get
5 instructions from MOE and provide it to the Board, but
6 we don't have it.

7 MADAM CHAIR: Well, the Board doesn't
8 want to hear any more about this document. Just find
9 it and you should be able to produce it and you should
10 be able to provide it to the parties. There can be no
11 explanation why.

12 MS. BLASTORAH: Well, that's right, Mrs.
13 Koven, I don't like to drag this out, and I certainly
14 wasn't implying that the Ministry of the Environment
15 was planning to provide it to us. It has always been
16 their position that they don't have it, maybe I'll
17 speak with them.

18 Our problem was that Mr. Lindgren has
19 indicated that they are unwilling to produce it because
20 of the concern about the contract with MOE. I'm trying
21 to clarify --

22 MS. SEABORN: As I understand it, it's
23 not finished and I don't think there's a document
24 that's producible, Madam Chair.

25 MS. BLASTORAH: Exactly, Madam Chair.

1 MS. SEABORN: I think that's the problem.
2 This was referred to in Dr. Payne's CV.

3 MS. BLASTORAH: That's exactly right.

4 MADAM CHAIR: Well, what's the 1987 date?

5 MS. SEABORN: 1987, I think --

6 MADAM CHAIR: It wasn't published, it
7 wasn't -- it was funded...

8 MS. SEABORN: No, that's the date funding
9 occurred in 1987.

10 MR. FREIDIN: No, it wasn't.

11 MS. SEABORN: Is my understanding.

12 MR. FREIDIN: Funding occurred in...

13 MS. SEABORN: Well, Mr. Freidin, you know
14 as well as I do that there's no document at the moment.

15 MADAM CHAIR: Well, if there's no
16 document what's it doing in --

17 MS. BLASTORAH: Exactly.

18 MR. LINDGREN: That's the point, Madam
19 Chair. It should not have appeared on the CV in the
20 first place.

21 MADAM CHAIR: All right. So it's a
22 mistake and it should be deleted from the CV?

23 MR. LINDGREN: Correct.

24 MADAM CHAIR: How do we go about formally
25 doing that kind of deletion, I mean --

1 MR. LINDGREN: Well, we can recirculate a
2 revised CV if that's necessary.

3 MADAM CHAIR: We'll send out an errata
4 sheet then and delete that from the CV.

5 MR. LINDGREN: Thank you, Madam Chair.

6 MADAM CHAIR: Mr. Hanna, how long are you
7 going to be in cross-examination?

8 MR. HANNA: Madam Chair, I'm sort of in
9 the same situation of the other parties, but given my
10 knowledge of the witness statement at this time, I
11 can't expect to be any more than a day and I expect to
12 be somewhat less than that.

13 MADAM CHAIR: Okay. Thank you.

14 Mr. Hanna, are you going to do something
15 about these statements of issue? They tell the Board
16 absolutely nothing. You've fallen into a pattern of
17 just putting the date on or something and we don't get
18 any information on your statements of issue, so we
19 would like to see next time around some indication of
20 what you intend to do with your cross-examination.

21 MR. HANNA: Madam Chair, I think I
22 addressed that issue in the last scoping session. I've
23 attempted through the interrogatories that I've
24 submitted basically to set out the matters which I wish
25 to cross-examine on. Depending upon those

1 interrogatory responses, I'll then decide whether I
2 need to pursue the issues further or not, and I think
3 it's clear from the cross-examination that's taken
4 place with Mr. Marek so far that that's essentially how
5 I've structured the cross-examination.

6 It's a matter of having responses and
7 being able to evaluate them in sufficient time.

8 MADAM CHAIR: But that doesn't help the
9 Board though, Mr. Hanna, know where you're going with
10 your cross-examination. We read the responses to the
11 interrogatories. We don't know if you accept those
12 responses or what you're going to do with them in your
13 cross-examination.

14 MR. HANNA: Madam Chair, perhaps I wasn't
15 clear. What I was suggesting was that because the
16 interrogatory responses that we received -- Mr.
17 Lindgren made special efforts to try and fax me the
18 interrogatory responses in draft form, unfortunately -
19 I have to check the date it was received - but it was
20 very close to the date that the statement of issues was
21 in and I simply didn't have time to discuss with my
22 client and to go over those responses, and just a
23 factual matter of the time it takes to adjust these
24 things, and that's unfortunately the circumstance I'm
25 in and certainly there is a pattern, you'll see that

1 the statement of issues for this panel is exactly the
2 same as the statement of issues for the panel preceding
3 and I was faced with the same circumstances in both
4 cases and there's nothing I can about it.

5 MADAM CHAIR: Well, there is something
6 you can do about it, Mr. Hanna, and that is, you can
7 put a short list of the issues you're going to address.
8 The Board isn't going to spend its time trying to match
9 the answers you get from interrogatories and glean
10 where you're going in your cross-examination. We want
11 to see something in your next statement of issues that
12 will give the Board an idea of what you want to
13 address.

14 MR. HANNA: I will do my very best, Madam
15 Chair.

16 MADAM CHAIR: Thanks, Mr. Hanna.

17 MR. HANNA: And just note the difficulty
18 I may face is that some of those issues may be
19 (inaudible) depending upon the responses that are
20 given.

21 MADAM CHAIR: It's still easier for us
22 than trying to guess from the interrogatory responses.
23 Thank you.

24 Is there anything else?

25 All right. Thank you very much. We'll

1 see you tomorrow morning at nine.

2 ---Whereupon the hearing was adjourned at 4:35 p.m., to
3 be reconvened on Thursday, November 8th, 1990,
4 commencing at 9:00 a.m.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

BD/MC [c. copyright 1985]

